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THE COMMISSION'S MANAGEMENT
OF **NON-STATE ACTORS'**
INVOLVEMENT IN EC DEVELOPMENT
COOPERATION



EN



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THE COMMISSION'S MANAGEMENT OF NON-STATE ACTORS' INVOLVEMENT IN EC DEVELOPMENT COOPERATION

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REPLY OF THE COMMISSION

LIST OF ABBREVIATIONS

- ACP:** African, Caribbean and Pacific (Group of States)
- ALA:** Asia(n) and Latin America(n)
- CONCORD:** European NGO Confederation for Relief and Development
- CRIS:** Common RELEX information system (computer application)
- CSO:** Civil society organisation
- CSP:** Country strategy paper
- DCI:** Development cooperation instrument
- EC:** European Community
- EDF:** European Development Funds
- EIDHR:** European Initiative for Democracy and Human Rights
- ENGO:** European NGO
- ENPI:** European neighbourhood and partnership instrument
- EU:** European Union
- EuropeAid:** European Commission's Cooperation Office
- Logframe:** Logical framework matrix
- NGO:** Non-governmental organisation
- NSA:** Non-state actor
- PADOR:** Potential applicant data online registration (computer application)
- RELEX:** Directorate-General for External Relations
- Southern NSAs:** NSAs from the beneficiary countries (the South)

EXECUTIVE SUMMARY

I.

The term 'non-state actors' (NSAs), as used in this report, covers all aspects of society that do not form part of the private sector or the state, including non-governmental organisations (NGOs)¹. The Cotonou Agreement with the ACP group of states, and EU legislation, provide for such non-state actors to play multiple roles in development cooperation, notably participating in policy dialogue as well as implementing projects. Support for capacity development is envisaged to help NSAs to fulfil these roles. The EU funds directly attributed to NSAs in 2007 were approximately 915 million euro, 10 % of the total aid to developing countries (general budget and EDF).

II.

The Court's audit considered the two main roles of NSAs and asked whether the Commission:

- adequately ensures that NSAs are involved effectively in the development cooperation process;
- has efficient management systems to ensure that activities implemented by NSAs are relevant and likely to produce the intended results;
- adequately ensures the provision of capacity development to NSAs.

¹ In the Cotonou Agreement the definition of non-state actors also includes the private sector. This report, however, takes the usage of the Development Cooperation Instrument (DCI — Regulation (EC) No 1905/2006 of the European Parliament and of the Council of 18 December 2006 establishing a financing instrument for development cooperation (OJ L 378, 27.12.2006, p. 41)), which excludes profit-making bodies. Article 24(2) of the DCI gives a fuller list of types of organisation. Although there is evident wide agreement on the typical characteristics of NGOs, there is no uniform definition (the United Nations and the World Bank both publish working definitions), and none was needed in order to carry out this audit since it is more useful to apply the broader concept of NSAs in development (equivalent to civil society as a whole).

EXECUTIVE SUMMARY

III.

The Court found that, despite the Commission's attempts to involve NSAs in the development cooperation process, this involvement has been limited and falls short of the sustained and structured dialogue envisaged by the EU legislation and the Commission's own guidelines (see paragraphs 18 to 35).

IV.

The Commission's management systems generally ensure that projects implemented by NSAs are relevant and are likely to produce the intended results. But the Call for proposals procedure does not always assure timely completion of project design, there is insufficient guidance for NSAs on the practical application of the financial rules, and there are inconsistencies in the interpretation and application of procedures. There is insufficient monitoring, and prospects for sustainability are poor partly because of the short project duration (see paragraphs 36 to 68).

V.

Capacity-development programmes are developed and form part of a strategy in most ACP countries, where, under the Cotonou Agreement, they are implemented in cooperation with the partner governments. However there is a significant disparity between this approach and that in Asian and Latin American beneficiary countries, for which strategies have not yet been developed (see paragraphs 69 to 74).

VI.

The first round of capacity-development programmes were found to be highly relevant to the needs of NSAs in the beneficiary countries. However, they did not reach their full potential mainly because management procedures led to delays that worsened the prospects for effectiveness and sustainability. The programmes are also faced with the inherent contradiction of supporting capacity development of the NSAs most in need by means of a procedure (Calls for Proposals) which is designed to select the best-performing NSAs (see paragraphs 75 to 83).

VII.

The report's main recommendations are that the Commission should:

- strengthen and provide more guidance on its procedures for involving NSAs in the development cooperation process;
- continue measures already in train to improve the Call for Proposals procedure;
- enhance the targeting of monitoring and support by Delegations;
- ensure sufficient guidance for both Delegation and NSA staff on performance indicators;
- to improve sustainability, consider using a mix of instruments (and not only projects) when working with NSAs;
- develop a strategy for capacity development of NSAs in ALA countries and reconsider the disparity in approach as between ACP and ALA countries;
- examine additional ways of delivering the capacity-development policy aims such as use of partnership agreements, multi-donor funding, and cascading grants in order to better reach grass-roots organisations.

INTRODUCTION

CONTEXT OF THE AUDIT

- 1.** The EU's approach to development cooperation, reflecting the evolving international consensus, has undergone a series of changes over the last decade, both at the policy level and as regards funding. EC policy now involves, to varying degrees, a range of partners whose characteristics and roles have progressively developed. The Commission works increasingly in partnership with a large range of bodies including, or representing, non-state actors.
- 2.** The term 'non-state actors' (NSAs) covers all aspects of society that do not form part of the private sector or the state. In the field of development cooperation, non-state actors include non-governmental organisations (NGOs) and also community-based organisations, farmers' associations, business or professional associations, environmental groups, universities, trade unions, chambers of commerce, and foundations as well as churches or faith groups. The term non-state actors is often used as a synonym of civil society organisations, and it is in that sense that it will be used in this report (see also footnote 1 in the Executive Summary). In the past, NGOs and in particular European NGOs were the EU's main NSA partners². However, there is now a strong emphasis on involving NSAs from the partner or beneficiary countries (often called 'Southern NSAs').
- 3.** NSAs fulfil a variety of functions in the EU development cooperation field as a whole, of which the two main roles are:
 - (a) policy dialogue, encompassing all representational, advocacy and watchdog functions vis-à-vis governments and donors;
 - (b) implementation of development programmes and projects which directly provide benefits for the poor.
- 4.** The legislation envisages the Commission working with NSAs in three main ways: by enhancing their policy dialogue role through involving them in its development cooperation; by funding development programmes and projects implemented by NSAs; and by supporting capacity development³, mainly for Southern NSAs, to enable them to play both roles. Under the devolution process, Commission Delegations now play the leading role in relations with NSAs and manage about 80 % (by number) of the programmes and projects concerned.

² One main reason was that European NGOs had better capacity to deal with the Commission requirements than NSAs from beneficiary countries, which were formerly rather sparse and weak.

³ Capacity development is the process by which people and organisations create and strengthen their ability to perform tasks and produce outputs, to define and solve problems, and to make informed choices over time.

BUDGETARY SIGNIFICANCE

5. It is difficult to trace the financial flow of the EC funds channelled through NSAs as the Commission lacks comprehensive data⁴. Nevertheless, development funds directly attributed to NSAs with no intermediary⁵ have gradually increased over the last decade, reaching, in 2007, approximately 10 % of the combined general budget and European Development Fund (EDF) aid to developing countries (see **Graph 1** and **Annex I**).
6. Traditionally, EC support to NSAs has been mainly provided by the thematic budget lines⁶, and to a lesser extent through the geographic budget lines⁷ and the EDF (**Annex I**). The main funding source has been the 'Co-financing with NGOs' programme (then restricted to European NGOs) which, established in 1976 with 2,5 million euro, rose to about 200 million euro/year in the mid-1990s, representing 23 % of the total funding from the Commission to NSAs in 2007.

⁴ See paragraph 52.

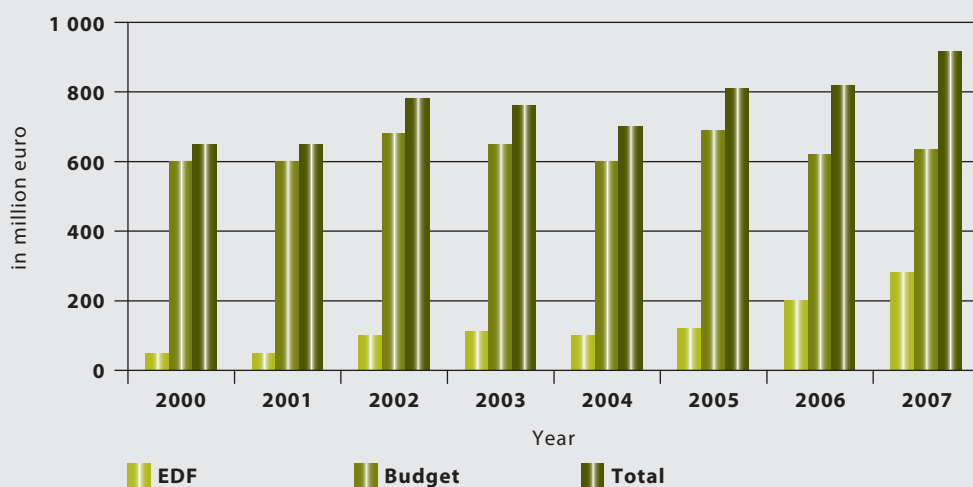
⁵ Excluding humanitarian and emergency aid (see paragraph 17) and excluding grants to international organisations (which may ultimately use NGOs/NSAs for implementing actions).

⁶ Thematic programmes are specific subjects or types of development activity, which are specifically provided for by the legislation and are programmed separately from the geographic programmes. They include: human and social development; environment and sustainable management of natural resources, including energy; non-state actors and local authorities; food security; and migration and asylum.

⁷ Geographic programmes encompass the cooperation in development activity with partner countries and regions, determined on a geographical basis.

GRAPH 1

EVOLUTION OF PAYMENTS MADE TO NSAs* DURING THE PERIOD 2000-07



* EU spending directly to development NSAs as first recipients of the payment.

Source: Commission Services.

THE LEGAL FRAMEWORK

7. The Commission has for many years funded European NGOs' own initiatives (under co-financing procedures) as well as using NGOs as implementers of EU aid. Council Regulation (EC) No 1658/98⁸ set out the rules on co-financing operations with European NGOs in fields of interest to the developing countries.

⁸ OJ L 213, 30.7.1998, p. 1.
8. As regards the African, Caribbean and Pacific (ACP) Group of States, the Cotonou Agreement, signed in June 2000, introduced a substantial reorientation in the relationship between the EU and NSAs. The ACP countries and the European Community legally committed themselves to involving NSAs in all phases of the cooperation process (formulation, implementation, review and evaluation) and to providing funds for strengthening the capacity of NSAs to enable them to play the new role of partners in development cooperation (see *Annex II*).

⁹ Regulation (EC) No 1905/2006.

¹⁰ Regulation (EC) No 1638/2006 of the European Parliament and of the Council of 24 October 2006 laying down general provisions establishing a European Neighbourhood and Partnership Instrument (OJ L 310, 9.11.2006, p. 1).
9. For other countries, the Development Cooperation Instrument (DCI)⁹ and the European Neighbourhood and Partnership Instrument (ENPI)¹⁰, which replaced the existing regulations from January 2007, contain specific provisions dealing with the role of NSAs in development. The DCI also includes a new thematic programme for non-state actors and local authorities in development, of which the main objective is to provide capacity development (replacing the previous 'Co-financing with NGOs' programme — see paragraph 6).

BOX 1

THE 'EUROPEAN CONSENSUS ON DEVELOPMENT' — PARTICIPATION OF CIVIL SOCIETY

'The EU supports the broad participation of all stakeholders in countries' development and encourages all parts of society to take part. Civil society, including economic and social partners such as trade unions, employers' organisations and the private sector, NGOs and other non-state actors of partner countries in particular play a vital role as promoters of democracy, social justice and human rights. The EU will enhance its support for building capacity of non-state actors in order to strengthen their voice in the development process and to advance political, social and economic dialogue. The important role of European civil society will be recognised as well; to that end, the EU will pay particular attention to development education and raising awareness among EU citizens.'

KEY DOCUMENTS

THE EUROPEAN CONSENSUS ON DEVELOPMENT

- 10.** In December 2005, with the ‘European Consensus on Development’ the EU made a high-level political declaration which recognises and strengthens the principle of participation of NSAs in countries’ development, and made a commitment to support developing the capacity of NSAs to fill this role¹¹.

¹¹ As explained in paragraph 2, NSAs is used here as synonym of civil society.

¹² The standards are set out in the conclusions of the Commission’s Communication on the participation of non-state actors in EC development policy (COM(2002) 598 final).

COMMUNICATIONS AND GUIDELINES

- 11.** In May 2003, the Council adopted¹² a certain range of standards that Commission services should meet in order to assure an adequate level of NSA consultation and participation:

- (a) promotion of NSA involvement in the preparation of the National Development Strategy or poverty strategy papers by the national authorities;
- (b) NSAs should be consulted systematically throughout the programming process;
- (c) all areas of interest should be represented in consultations;
- (d) clear and comprehensive information to be provided to NSAs in good time so as to allow them to prepare their effective participation;
- (e) capacity development is essential to enable NSAs to play a constructive role in the development process;
- (f) enhanced coordination with Member States and other donors;
- (g) the EC to continue to encourage NSAs to participate in the implementation of cooperation projects and programmes;
- (h) the EC to keep its existing relations with NSAs as implementing partners and as implementers of their own initiatives.

- 12.** In November 2004 the Commission released guidelines for all Commission Delegations on NSA involvement in the development process, which complement those already issued for ACP Delegations. These guidelines apply to the 2007–13 Country Strategy Papers.

AUDIT SCOPE AND APPROACH

- 13.** The Court's audit addressed the Commission's management of NSAs' involvement in development cooperation, taking into account their two main roles, as partners in EC development cooperation and as implementing actors (see paragraph 3). The audit approached this through the three following questions:
- (a) Does the Commission adequately ensure that NSAs are involved effectively in the development cooperation process?
 - (b) Do the Commission's management systems efficiently ensure that activities implemented by NSAs are relevant and likely to produce the intended results?
 - (c) Does the Commission adequately ensure the provision of capacity development to NSAs?
- 14.** The Court took as a starting point the standards and guidelines referred to in paragraphs 11 and 12 above. They set out an approved basis for the implementation of the EU's policy to ensure NSA participation in EC development cooperation, and therefore serve as overall audit criteria for this audit.
- 15.** The main audit work carried out to answer these questions was as follows:
- (a) a review of documentation on EC policy and programming concerning NSAs, together with reports on implementation (see paragraph 24);
 - (b) on-the-spot missions to Commission Delegations in Bangladesh, Ethiopia, Peru and South Africa to examine Commission procedures and activities including five programmes of capacity-development support, seven local calls for proposals and 16 individual projects (see *Annex III*);
 - (c) desk reviews covering two programmes of capacity-development support in Mali and Uganda;

- (d) interviews with more than 60 local and international NSAs, with central and local authorities in partner countries, technical assistance units and other donors, and with some European NSA platforms and networks, to collect information on the level of NSA participation in the development cooperation process, and on their experience of the Commission's procedures to support such participation (see *Annex IV*);
- (e) benchmarking with the development assistance agencies of the Netherlands and Sweden.

The audit covered consultation with NSAs from the year 2000 onwards (date of signature of the Cotonou Agreement), together with a sample of projects and programmes that were in progress in 2007.

¹³ The last three annual reports of the Court on the implementation of the budget (2007: Chapter 8, External aid, Development and Enlargement; 2006 and 2005: Chapter 8, External actions), and on the activities funded by the European Development Funds (concerning the financial years 2005, 2006 and 2007), and the Special Report No 10/2008 — EC Development Assistance to Health Services in sub-Saharan Africa (<http://www.eca.europa.eu>).

- 16.** The results of recent Court audits involving observations on NSAs in development cooperation¹³ were also taken into account, as well as the recent Commission Internal Audit Service audit on NGOs in EuropeAid and its follow-up. The audit also took into account the fact that the Commission is currently carrying out an evaluation of EC aid delivery through civil society organisations. According to its terms of reference, the evaluation focuses on NSAs as implementers (channels by which EC aid is delivered). The Court's audit has examined the broader question of the Commission's involvement of NSAs in all phases of EU development cooperation.
- 17.** The audit focused on the NSA roles in development cooperation and did not extend to humanitarian or emergency aid, because that is a separate field with specific strategy and management systems. It did not include comparison between various channels (private sector, UN, banking systems) in the field of efficiency and effectiveness, nor comparative analysis of the impact of NSA actions in various intervention sectors.

OBSERVATIONS

DOES THE COMMISSION ADEQUATELY ENSURE THAT NSAs ARE INVOLVED EFFECTIVELY IN THE DEVELOPMENT COOPERATION PROCESS?

- 18.** The systematic involvement of NSAs in development cooperation is widely recognised as a means of promoting ownership and participation, core principles of EU development policy, and of tapping practical local knowledge and experience as an input to programming. This is reflected in policy as stated in the 'European Consensus on Development' (see **Box 1**).
- 19.** In order to assess the adequacy of the Commission's involvement of NSAs, the Court examined two fundamental consultation processes concerning:
- (a) the preparation of country strategy papers for ACP, Asian and Latin American countries;
 - (b) the preparation of the strategy paper for the new thematic programme for NSAs and local authorities in development.

¹⁴ Communication from the Commission: General principles and minimum standards for consultation of interested parties by the Commission, COM(2002) 704 final, 11.12.2002.

PREPARATION OF COUNTRY STRATEGY PAPERS

- 20.** The Court assessed the existence of a sustained and structured dialogue, the completeness of the guidelines for consulting NSAs (paragraph 12), and the level of compliance with these guidelines and with the Commission's general principles and standards for consultation of interested parties¹⁴:
- (a) the existence of clear institutional mechanisms;
 - (b) the inclusion of relevant NSAs;
 - (c) that the time provided for NSA participation was sufficient;
 - (d) the adequacy of the preparatory process;
 - (e) whether clear feedback on the results of the dialogue was given;
 - (f) the existence of sufficient EC resources for an effective dialogue.

NSAs' INVOLVEMENT IN COUNTRY STRATEGY PAPERS DOES NOT MEET THE GUIDELINES

21. Although it was already EC policy to consult with NSAs¹⁵, in three of the four countries audited (the exception was South Africa), little evidence was found of NSA involvement in the preparation of the 2002–06 country strategy papers (CSPs) due to lack of adequate records at Commission Delegations. In South Africa there had been limited consultations. Since then, there has been a genuine attempt, in Ethiopia, starting with the joint annual reviews of the strategy from 2004 and continuing with the 2007–13 CSP, to operate a sustained and structured tripartite dialogue between the government, the EC and representatives of NSAs (see **Box 2**).

¹⁵ COM(2000) 212 final, the European Community's Development Policy, point 5.2.

22. By contrast, in Bangladesh and Peru — and as before in South Africa — the Delegations did not systematically involve NSAs in the 2007–13 programming process except for holding ad hoc consultations. These typically took the form of one-day seminars at which presentations were made and ideas gathered from the NSAs present, rather than a sustained dialogue. Moreover, in Peru and South Africa, no evidence was found that the results of these consultations were incorporated in the country strategy papers. The audit noted other weaknesses in the consultation process: there was an absence of clear mechanisms for managing the consultations (e.g. absence of an action plan with a stable and predictable schedule of consultations over time), delays in distributing documents, late invitations, consultations at a late stage in the programming process, limited choice of NSAs, difficulty for NSAs to comment on the proposals, and insufficient feedback to NSAs on the results of the consultations.

BOX 2

EXAMPLE OF A GOOD APPROACH TO STRUCTURING DIALOGUE BETWEEN THE GOVERNMENT, THE EC AND NSAs

Ethiopia: the Cotonou Task Force

In 2003, a group of national and international NGOs and networks operating in Ethiopia organised themselves into the so-called Cotonou Task Force (CTF) to engage in dialogue with the Delegation and the Government on EC development cooperation. The Delegation and Government have effectively engaged in an active dialogue and consultation with the Cotonou Task Force, especially for the Joint Annual Reviews from 2004 onwards and for the formulation of the new country strategy paper for the 10th EDF.

- 23.** For all four Delegations audited, the involvement of NSAs in the development process was limited to the definition of the overall strategy and did not therefore go beyond to include (as the guidelines prescribe) consultation on sectoral strategies and involvement of NSAs in project implementation, monitoring and evaluation in each area of development.
- 24.** In addition, the Court analysed information held by Commission headquarters¹⁶, which showed similar weaknesses for other Delegations. Although there was some kind of consultation in virtually all ACP countries, Commission headquarters only considered the involvement of NSAs satisfactory in relation to the guidelines (i.e. involvement going beyond ad hoc consultations) in half of them¹⁷. Likewise, for the 24 Asian and Latin American (ALA) countries reviewed, the Court found that there was generally some form of consultation but the involvement of NSAs went beyond ad hoc consultations in only four of the Latin American countries and in none in Asia.
- 25.** The involvement of NSAs was greater in the ACP countries, under the remit of the Cotonou Agreement — under which NSAs have the right to be involved — than in Asian and Latin American countries. Before the new DCI in 2007, the former ALA regulation¹⁸ did not require involvement of NSAs on cooperation policies and strategies.
- 26.** Commission staff experienced practical difficulties in engaging with NSAs. It was found, inter alia, that: (i) involvement with NSAs depends very much also on the stance of the partner country government; (ii) it is difficult to know which are the relevant NSAs to engage with; (iii) when engaging with NSAs (either individually or as a platform) the issues of their representativity and accountability arise; (iv) many NSAs do not have the capacity and/or the resources to engage in the development cooperation process and will not participate if they know they have little chance of receiving funds as a result; (v) NSAs do not always advocate the views of the most marginalised groups.
- 27.** Even where there have been substantial efforts to engage with NSAs problems of implementation meant that the results were not always successful (see **Box 3**).

¹⁶ Including the exceptional case of Guatemala (see Box 3).

¹⁷ This assessment is supported by the results of a consultation exercise by the European Economic and Social Committee on NSAs' and local authorities' participation in the elaboration of the 10th EDF Country Strategy Papers in ACP countries.

¹⁸ Council Regulation (EEC) No 443/92 of 25 February 1992 on financial and technical assistance to, and economic cooperation with the developing countries in Asia and Latin America (OJ L 52, 27.2.1992, p. 1).

SPECIFIC TRAINING AND DETAILED GUIDANCE ON HOW TO INVOLVE NSAs NEED TO BE FURTHER DEVELOPED

- 28.** The limited involvement of NSAs in many cases, and widespread weaknesses in the timing and the way the consultations were organised, show that translating the ambitious goal of involving NSAs in all EC development cooperation into reality remains a major challenge. For many Delegation staff, NSA involvement is mostly limited to service delivery or to ‘one-shot’ consultations at certain moments of the programming cycle. The Commission has not yet invested sufficient time and resources to really engage Delegation staff with NSAs at all levels. Specific training is to be further developed.
- 29.** The guidelines in use by the Commission at the time of the audit (see paragraph 12) recognise many of the issues, but except for recommending a mapping study to identify relevant NSAs and assess their representativity, they do not set out detailed instructions, for example concerning key issues such as the role of NSAs in the aid effectiveness agenda, and the participation of NSAs in the definition of sector strategies including budget support.

BOX 3

EXAMPLE OF DIFFICULTIES IN INVOLVING NSAs IN EC DEVELOPMENT COOPERATION

Guatemala: the ‘Mesodiálogo’

The Mesodiálogo was launched in 2000 with the participation of the Commission Delegation, Member States, Government, European NGOs and NSAs from Guatemala. The aim was to support implementation of the 2002–06 country strategy paper (CSP), through direct involvement in identification, implementation and monitoring of the CSP programmes. Around 150 organisations and 800 people, organised into working groups, participated in the process, which included drafting of strategic documents, accompanying identification and formulation missions, creation of regional networks, etc. However, the organisational burden for the Delegation, the feeling that the Mesodiálogo was exceeding its role by intervening in topics that were exclusive competences of the EC, and the lack of clear government ownership and guarantees of sustainability, led to a progressive decline in the process which was finally closed in 2005.

Sources: RELEX/L3 Working document on involvement of NSAs in the programming process in the countries of Asia and Latin America; EC aid to Guatemala — Background Country Study Paper, December 2006; and Desk Study, August 2006 commissioned by CIDSE (Coopération Internationale pour le Développement et la Solidarité/International Cooperation for Development and Solidarity) and Caritas Europa.

THEMATIC PROGRAMME ON NON-STATE ACTORS AND LOCAL AUTHORITIES IN DEVELOPMENT

- 30.** This new programme¹⁹ is the successor of the former co-financing with European NGOs and decentralised cooperation programmes, and, like its predecessors, is one of the more important and stable EC sources of financing for the activities of NSAs and support of their own initiatives.
- 31.** In drawing up the strategy papers for such thematic programmes the Commission is required to consult other development actors, including representatives of NSAs and local authorities, at an early stage of the programming process²⁰. European NGOs (ENGOS) through CONCORD²¹ have traditionally been heavily involved in dialogue on the management of the NGO co-financing programme. The new programme is also open to NSAs and local authorities from partner countries which thus should also be involved in the consultation.
- 32.** After establishing the strategy paper for this programme, Commission headquarters requested Delegations to produce, on the basis of further consultations with local NSAs, concept notes assessing the relevance of the programme for their partner countries and justifying the appropriate level of expenditure. The Court examined the effectiveness of both phases of consultation, again using as criteria those set out in the Commission's 2002 communication (see paragraph 20).
- 33.** For the overall strategy, the Commission ran an online public consultation, aimed at both European NSAs and those originating from the partner countries (Southern NSAs), through a questionnaire published on the Commission's website and sent to Delegations²². At the European level, viewed in the context of routine ongoing contacts between the Commission and CONCORD, this method of consultation was effective. However, consultation of Southern NSAs was not organised effectively. The questionnaire was sent out to ACP Delegations, which were expected to inform NSAs of the consultation and pass the questionnaire on to them. However, the timing of the consultation — at the peak leave period for Delegation staff — was inappropriate and so short as to be impracticable²³ (the ACP Delegations visited for this audit, Ethiopia and South Africa, were not able within the short deadline to consult NSAs). Furthermore, such a request was not sent to Delegations in ALA countries, and thus NSAs in ALA countries were not made aware that the consultation was running.
- ¹⁹ One of the programmes provided for by the Development Cooperation Instrument (see paragraph 9).
- ²⁰ Article 20(2) of Regulation (EC) No 1905/2006.
- ²¹ The European NGO Confederation for Relief and Development (CONCORD) was set up in January 2003 as the representative and interlocutor body contemplated in Regulation (EC) No 1658/98 laying down the NGO co-financing programme. It regularly engages in dialogue with the EU institutions, and coordinates cooperation between NGOs. Its 22 national associations (platforms) and 20 international thematic networks represent over 1 600 NGOs.
- ²² It was also sent directly to CONCORD, the European Economic and Social Committee, the Committee of Regions, and the Council of European Municipalities and Regions for dissemination among their members.
- ²³ It was launched on 31 July 2006 and ran to 11 September. This is less than the eight weeks prescribed as a minimum period for consultation.

34. For the second phase, due to delays in adopting the DCI regulation and the strategy paper, Delegations had only a month to prepare the concept notes and most of them could not involve NSAs in any structured way. In Bangladesh an ad hoc workshop with NSAs took place. For Peru, however, the Delegation did not consult NSAs²⁴, and a review of a sample of concept notes (Angola, Chile, Malawi, Namibia and Nepal) provided further evidence of lack of consultations with NSAs on this programme.

²⁴ For Ethiopia and South Africa, their respective Commission Delegations decided not to participate in this programme.

²⁵ On sustainability in practice, see paragraphs 63 to 68.

35. In the Court's view the Commission gave too little attention to methods of consultation with Southern NSAs. Very active facilitation by Delegations — in addition to the passive method of placing a questionnaire on the Internet — is evidently necessary in many countries, and was partly envisaged (for the ACP countries) but not fully implemented anywhere. Furthermore, attention was not given to the potential limitations of consulting the potential recipients of grants about priority areas, a consultation in which they could hardly be disinterested; and alternatives such as networks, umbrella and regional bodies were not explored.

DO THE COMMISSION'S MANAGEMENT SYSTEMS EFFICIENTLY ENSURE THAT ACTIVITIES IMPLEMENTED BY NSAs ARE RELEVANT AND LIKELY TO PRODUCE THE INTENDED RESULTS?

36. The Court audited the management systems for NSA grant contracts at Commission headquarters as well as on the spot at four Delegations, including examination of 16 individual projects (see *Annex III*). The audit covered the procedures for selecting projects, control and supervision arrangements, the monitoring done and the tools used for this, and the question of sustainability.

SELECTION PROCEDURES

37. The aim of the audit of selection procedures was to determine the extent to which the procedures applied ensured the selection of projects that were relevant, timely and likely to be sustainable²⁵.

**THE CALL FOR PROPOSALS PROCEDURE PROMOTES FAIR COMPETITION
BUT CAN STILL BE CUMBERSOME IN OPERATION AND DOES NOT ASSURE TIMELY
COMPLETION OF PROJECT DESIGN**

38. The standard selection procedure has been, since 2000, by means of calls for proposals. Although the procedure is recognised as allowing fair competition among NSAs and therefore should improve the likelihood of selecting relevant projects, it continues to represent an administrative challenge for both the Commission and for applicant NSAs. Calls for proposals raise considerable interest among NSAs and the number of funding requests has always greatly exceeded the available funds²⁶. This has led to lengthy procedures and required the assistance of external experts. Also, calls under the co-financing with NGOs programme have been too general and unfocused, increasing the likelihood of less relevant applications being transmitted. Finally, the implementation of the detailed procedures can be cumbersome for small NSAs.

²⁶ For a budget of 284 million euro for the 2007–08 calls for proposals under Thematic programmes managed at central level by EuropeAid, 4 565 applications were received, amounting to total requests for 3 650 million euro. After a first selection based on a concept note, 1 088 applications amounting to 989 million euro passed to the second stage of selection, and only 212 were finally selected.

39. Whereas the calls for proposals audited generally led to the selection of relevant projects, the audit showed that for the projects audited the average time between the submission of proposals and the actual signing of contracts was more than a year, making it difficult for NSAs to plan effectively. The Court also found that the methods used to advertise the calls (mainly through the Internet and newspapers) were not always suited for reaching relevant NSAs at grass-roots level²⁷.

²⁷ For example, because only European languages are used, or because newspapers are not rapidly distributed to remote areas.

40. The Court welcomes that the Commission has taken measures in 2006 and 2007 to improve the efficiency of the Call for Proposals procedure, although it is not yet possible to assess the full effects. The measures include:

- (a) introduction of the restricted procedure which allows a first selection of applicants based on a short concept note, with the full proposal (including project design) being submitted to a second stage of selection;
- (b) the combined use of two years' budget in a single call for proposals;

- (c) the introduction of an online registration service (PADOR) reducing duplication of work for applicants;
- (d) the increasing use of 'tailor-made' local calls for proposals where the objectives have been adapted to the local situation and locally-based organisations have more chance of being selected.

41. However, problems with project design, which may profoundly affect the effectiveness and sustainability, remain widespread. For several of the projects audited, insufficient preparation for the formulation of activities meant that the first year of the projects had to be devoted to project design (carrying out diagnostics, identification of beneficiaries, studies). This reduced the time available for effective implementation, making the project more vulnerable to delays, and worsening the prospects for sustainability. The example in **Box 4** serves as an illustration.

BOX 4

EXAMPLE OF POOR PROJECT DESIGN

Promotion of the incorporation of women micro-entrepreneurs and family-based economic units in the formal labour system — Peru

The local NGO partner implemented this project in four regions including Junin which was visited by the Court in February 2008, and where the NGO did not have a previous presence. Although a results oriented monitoring exercise as recently as 2007 had not forecast such problems, the Court found no evidence that the NGO had involved the relevant public authorities in the design of the project activities. Nor did the NGO coordinate with the existing networks and organisations supporting the micro-enterprises in the region. During the project implementation the local NGO partner had to contract one such network to carry out basic research to identify potential beneficiaries and economic opportunities. The project design was based on the idea that it would be replicated and expanded by the public authorities. However, the Court found that the relevant authorities were either not involved in the project at all, did not work as they were supposed to, or did not have enough financial and human resources to take over the project activities.

CONTROL AND SUPERVISION PROCEDURES

42. The aim of the audit of the Commission's control and supervision procedures was to determine the extent to which they ensured a smooth implementation of NSA project activities. While numerous evaluations have found that stakeholders find procedures cumbersome²⁸, which has also been a matter of concern to Parliament²⁹, the Court recognises the efforts made by the Commission to address the problem. High level initiatives taken by the Commission include setting up an inter-service committee to simplify procedures, strengthening the dialogue between the Commission and CONCORD on financial and contractual issues (leading to a Reader on the standard grant contract) and issuing new practical guides and simplified forms and documents. The devolution of the thematic programmes has generally also helped improve the dialogue between the EC and NSAs.

²⁸ The issue was also raised in a letter from CONCORD to Commissioner Nielson of 17 March 2004 on the impact of the financial regulation and its derived documents and procedures on NGOs.

²⁹ The European Parliament in the 2004 discharge stated that it: 'regrets [...] the vastly increased complexity of the new procedures, which are cumbersome and take far too long to implement, points out the need for real simplification, while not losing sight of the original objective' (Resolution of the European Parliament with comments forming an integral part of the decision on the discharge for implementation of the European Union general budget for the financial year 2004, Section III — Commission (OJ L 340, 6.12.2006, p. 5), point 185).

43. The control and supervision procedures were operating correctly in many respects, but there remain some specific problems which lead to errors³⁰.

THE GUIDANCE PROVIDED TO NSAs ON HOW TO APPLY THE RULES IN PRACTICE HAS NOT BEEN SUFFICIENT

44. Practical guidance on how to apply the EC's financial and contractual rules needs to take into account the turnover of staff in the Commission's Delegations and, within NSAs, a limited level of knowledge about these rules. Among the methods used to improve knowledge are training courses held in the Delegations for both staff and beneficiaries, and the endorsement of a hands-on guide produced in cooperation with CONCORD (the so-called Reader on standard grant contracts).

³⁰ Similar findings resulted from the Court's DAS audits: see the Court's Annual Reports concerning the financial year 2007 on the implementation of the budget, paragraph 8.9; and on the European Development Funds (EDFs), paragraph 22.

45. The training is useful but for the beneficiaries mostly consists only of one-day workshops after the conclusion of the calls for proposals. The Court found this to be insufficient to ensure that the NSAs 'institutionalise' the knowledge required to apply the rules correctly in the course of a typical project implementation period.

- 46.** The audit found little evidence that the Reader was used by Delegation staff or by beneficiary NSAs. Its non-legally-binding nature may be one of the reasons why staff in Delegations decided against using it as a standard reference document.

³¹ For instance paragraph 8.24 in Chapter 8 of the Court's Annual Report concerning the financial year 2007 (OJ C 286, 10.11.2008, p. 182).

- 47.** When changes in the Practical Guide and contract conditions occur (the Practical Guide has been modified five times in last seven years) they have not been communicated systematically to the grantees. Moreover, there have been inconsistencies in the interpretation of the rules, which meant that grantees in some instances have been asked by the Commission to operate under new conditions even when they were not applicable retrospectively.

PROJECT AUDITS WERE NOT ALWAYS OF SUFFICIENTLY HIGH QUALITY

- 48.** For several of the projects examined in this audit, shortcomings were noted in the quality of project audits. They did not effectively detect errors affecting the eligibility of transactions at grantee and implementing partner level. The specific assessments of EDF and external actions in the context of the Court's annual reports³¹ noted similar shortcomings in project audits.

- 49.** In an effort to address these shortcomings the Commission has developed revised terms of reference to ensure that the audit work is comprehensive, which became obligatory for project contracts from February 2006. For the projects audited, it was too early to assess the effect of this change.

INCONSISTENCIES IN THE INTERPRETATION AND APPLICATION OF PROCEDURES LED TO UNNECESSARY ADMINISTRATIVE BURDENS ON NSAs

- 50.** The audit noted that some practical administrative problems in the management of grant contracts persist, including:
- (a) inconsistent interpretations of the rules of origin for supplies purchased under EC-financed contracts, which may have burdened NSAs unnecessarily (example in **Box 5**);

- (b) difficulty for NSAs in obtaining tax exemption or recovering taxes in some partner countries;
- (c) the requirement to use an EC-notified exchange rate (instead of the rate in fact obtained), that could penalise projects in some circumstances;
- (d) delays by the Commission in approving payment requests, which might result in project delays;
- (e) additional requirements inconsistently imposed on projects by Delegations, adding unnecessary administrative burdens on the NSAs, such as: (i) additional periodic reports or audit reports; (ii) the use of separate, specific bank accounts for each project; (iii) payment options different from the one laid down in the general conditions (e.g. smaller instalments).

BOX 5

EXAMPLE OF INCONSISTENT INTERPRETATIONS OF THE RULES OF ORIGIN

Purchases of motorcycles — the case of Ethiopia

Japanese vehicles are generally preferred by NGOs in Ethiopia because their quality is reliable under local conditions. However, the Delegation invited NGOs within the framework of Food Security projects to consider Chinese vehicles also, partly because it believed that derogation was needed for Japanese but not for Chinese vehicles.

Reflecting the Delegation's assumptions on the derogation rules, one NGO purchased 10 Chinese motorcycles without requesting derogation. As several of these broke down the NGO on 14 December 2006 requested permission and derogation from the rules of origin to buy an additional two motorcycles of more robust Japanese manufacture, which was initially rejected by the Delegation. On 11 September 2007, the Delegation eventually did accept the request when it was resubmitted with a request for a budget amendment.

Meanwhile, the Court found that the Delegation had consulted Headquarters in April 2007 when both parties had concluded that derogation was not required for Japanese goods purchased in Ethiopia under a thematic budget line, while derogation was and always had been required for Chinese goods.

The rules, however still appear to be open to differing interpretations³².

³² Under the Council Regulations on access to Community external assistance, especially Articles 3(2), 3(3) and 5 and Annex II, projects financed by the thematic programmes in Ethiopia could benefit as from 28 December 2005 from goods originating both from Japan and China without any request for derogation, since Ethiopia is classified as a least-developed country. Contrary to this, goods specifically originating from China require a request for derogation in case of a grant contract financed by the EDF. The EDF regulation also allows purchase of goods, irrespective of their origin, on the local market up to 30 000 euro.

MONITORING INCLUDING TOOLS AND ASSESSMENTS OF THE EFFECTIVENESS OF NSA ACTIVITIES

- 51.** Effective monitoring is an essential part of the management of projects, for which the Commission uses a number of tools and procedures. The aim of the Court's audit was to determine, in the light of the existing Commission procedures, if: (i) the IT systems provide the necessary management information to take decisions and monitor NSA activities; (ii) a management reporting system is in place; (iii) Delegations adequately monitor the projects, receive sufficient feedback from external monitoring and evaluations, and follow up on them; (iv) suitable tools for assessing outputs and results of activities are used; (v) adequate tools for assessing the long-term impact of activities are used.

THE COMMISSION'S COMPUTERISED INFORMATION SYSTEM, CRIS, HAS NOT BEEN USED TO ITS FULL POTENTIAL

- 52.** As noted in paragraph 5, there is at present no readily available source of data in EuropeAid concerning NSA funding in the field of development cooperation. The data in the Common RELEX Information System (CRIS) is incomplete and the identification of operators unreliable. It provides little information in the form of analysis and syntheses of the state of play for ongoing and completed projects, including assessments and conclusions. The CRIS Implementation Report, a monitoring tool, does not fully meet users' needs and is often not properly used.

PROJECT REPORTS HAVE NOT ALWAYS PROVIDED AN ACCURATE ASSESSMENT OF THE STATE OF IMPLEMENTATION

- 53.** NSAs benefiting from a grant must provide technical and financial reports, which should allow for a comparison between the project proposal and what was achieved during the reporting period. For half of the projects audited these reports did not present a comprehensive assessment of the state of implementation. In general, reports tended to underemphasise the most challenging issues and focus on the positive achievements.
- 54.** Under the current procedures, NSAs have to apply a logical framework, including quantitative performance indicators³³. However, for 13 of 16 projects audited, the technical reports did not provide a direct comparison between the expected and achieved results using the logical framework. Hence the Logframes in several of the projects audited were gradually losing their relevance as tools for project monitoring.

³³ Logical Framework Approach and Logical Framework Matrix (the Logframe) are analytical and management tools widely used in development cooperation by donors and partner governments. The typical design of a Logframe involves tasks such as formulating SMART indicators (Specific, Measurable, Achievable, Relevant and Timed), identifying adequate sources of verification, setting realistic targets for each indicator, and collecting baseline values for later measurement of progress and results achieved. An adequate performance-monitoring system would therefore include regular collection of data on the actual results. NSAs are sometimes also asked to collect data and report not only on inputs, processes and outputs, but also on mid-term outcomes and long-term impacts.

- 55.** The Court noted in its benchmarking exercise that some agencies apply a quality assurance mechanism with respect to Logframes, including quantitative and qualitative performance indicators.

INSUFFICIENT PROJECT FIELD VISITS CARRIED OUT BY COMMISSION STAFF

- 56.** Proper monitoring of projects by Delegations includes regular and direct contacts with the NSA partners, and discussions on implementation issues affecting project performance. The audit examined to what extent the Commission carried out physical, on-site inspections of projects including checking the accounts and supporting documents of projects in the offices of the grant beneficiaries and their implementing partners. The Court found that the level of on-site controls was insufficient.
- 57.** Moreover, many NSAs interviewed expressed regret about the lack of on-site support from the Delegations. Their responses suggested that many errors related to the financial and contractual rules could be avoided by on-site checks at the appropriate point in time, as incorrect practices would become visible and could be rectified.
- 58.** Six out of the 16 audited projects had not been visited by Delegation staff at all. For the projects visited, there was generally no systematic pattern. Sometimes visits were made in connection with events organised by the NSAs, sometimes they were made jointly with external monitoring missions. In some cases specific and concrete plans to carry out field visits at defined stages of the projects' lifetime were indeed laid down. However, in all these cases the plans were not fully implemented due to a lack of resources. There was no standard for the monitoring reports established by the Delegations visited by the Court. Before December 2007, staff had no operational guidelines for project monitoring.
- 59.** Projects may also be selected for external monitoring through the results-oriented monitoring missions of the Commission (ROM). This technique, however, does not compensate for an absence of monitoring at operational level: most projects involving NSAs have an EC contribution of less than 1 million euro, and under the ROM system only about 10 % of projects below this value are selected for monitoring.

EXTERNAL EVALUATIONS HAVE NOT PROVIDED ADEQUATE ASSESSMENTS OF THE IMPACT OF NSA PROJECTS

60. NSA grant contracts generally provide for external evaluations at the end of the project and/or at mid-stage. The standard terms of reference for evaluations are not compulsory for this type of evaluation, and there is a risk of conflict of interest as under current practice the contracting of evaluators is done by the beneficiaries. The Court noted in benchmarking that certain development agencies operate a quality assurance mechanism with respect to evaluations commissioned by the beneficiary NSAs.

³⁴ The last generation of grant contracts signed in Peru already foresees this.

61. The evaluations carried out, together with the other assessment and reporting instruments currently in use (NSAs' reports, field visits and ROM reports), do not provide adequate assessments of the impact of NSAs' individual projects. This is either because the objectives are expressed in such broad terms that they cannot be associated with measurable indicators of impact, or because the means of verification are inadequate or too costly.

62. The Commission is moving towards results-based management with more emphasis on measuring the impact and results and evaluating the added value of its development cooperation. This puts greater pressure on NSAs to develop systems to monitor not only outputs but also outcomes and impacts³⁴, and requires that more practical guidance is provided by Commission services to ensure that Logframes and performance indicators are appropriate and remain relevant.

PROSPECTS FOR SUSTAINABILITY

63. The project selection process includes the assessment of sustainability, that is of the prospects for the project results to be permanent. The Commission has recently introduced *ex post* results-oriented monitoring that covers sustainability and impact at project level.

- 64.** While the 16 projects audited have achieved or are likely to achieve good results in the short term, their prospects for sustainability were much less positive. At the time of the Court's audit, sustainability was uncertain for 12 of the projects, either because of a lack of funds after the end of the project or due to inadequate institutional arrangements. An example of the latter is provided in **Box 6**.
- 65.** The prospects for sustainability for the remaining four projects were good not because they were intrinsically sustainable, but rather because they are run by international NGOs with long-term commitment, which are able to secure funding from other sources than the European Union.
- 66.** Long-term commitment and funding, together with the need to ensure institutional arrangements allowing the relevant stakeholders to take over the activities, are essential elements of sustainability. The Court's audit has shown that project duration is generally insufficient to ensure sustainability even after extensions³⁵. In addition the actual implementation period is in practice often shortened by late start-up (see paragraph 41).
- 67.** The current project approach is also faced with the potential contradiction of using short-term interventions to address structural problems that need long-term commitment. Sustainability is especially a problem for the capacity-development element of projects because this typically requires social and attitude changes which require much more time than is generally available for project implementation.

³⁵ The average period for the projects audited was 37 months, extensions included.

BOX 6

SUPPORT TO POLICING OF CRIMES AGAINST WOMEN AND CHILDREN IN THE EASTERN CAPE (SOUTH AFRICA) — VICTIM FRIENDLY CENTRES

Whereas the South African police authorities were able to continue to cover the running costs of the care centres for victims of violence after the project ended, there was a risk that volunteers working in the centres would not be available in the future as the Social Welfare Department had not yet assumed the responsibility for their supervision and training as foreseen in the project design.

- 68.** The Court noted in its benchmarking exercise that other development agencies avoid some of the problems of poor design and short project duration by using a range of instruments in addition to specific projects, including long-term framework partnership agreements with competitively selected NSAs³⁶.

³⁶ Several development agencies use framework partnership agreements which typically run for four to eight years.

DOES THE COMMISSION ADEQUATELY ENSURE THE PROVISION OF CAPACITY DEVELOPMENT TO NSAs?

- 69.** This section addresses the question whether the Commission has translated both the legal requirements and the policy statements on capacity-development support for NSAs into a strategy in all the beneficiary countries and regions, and carried it out through relevant activities effectively implemented.

³⁷ Capacity-development support to NSAs is meant to strengthen their role as partners in development cooperation (see paragraph 8 and Box 1) but it also includes training in project management to improve the quality of their projects and to increase their capacity to apply for and raise funds from donors.

STRATEGY FOR CAPACITY DEVELOPMENT OF NSAs

- 70.** Capacity development is intended to strengthen NSAs' role both as partners in the development process and as implementing actors³⁷. In order to support it effectively, and to ensure coherence and complementarity with other programmes and donors, the Commission needs to devise a strategy for each country setting out which NSAs, sectors and themes should be targeted, and what working methods to use.
- 71.** The Court examined whether such a strategy existed for the ACP countries (where the provision of capacity development to NSAs is binding), and for Asian and Latin American countries, where the former ALA regulation did not mention capacity development. The Court also examined whether the entry in force in January 2007 of the DCI, which repealed the ALA regulation and mentions the provision of capacity development to NSAs, has meant any change in the existing strategies.

EXISTENCE OF TWO DIFFERENT APPROACHES

- 72.** Following the signature of the Cotonou Agreement (see paragraph 8), in most of the ACP countries strategies have been developed and programmes set up for capacity development of NSAs, financed by the EU³⁸. For Asian and Latin American countries there are neither particular strategies for EC-supported capacity development of NSAs nor such programmes³⁹. This difference does not result from an overall assessment of needs, but mainly reflects the fact that capacity-development support to NSAs in ACP countries is legally required, whereas for ALA countries it was not.
- 73.** The DCI, applicable since 2007 for ALA countries, includes capacity-development for NSAs in the areas of cooperation covered by geographic programmes and sets out as an important principle that these programmes should be the normal instrument for providing support, since they are based on assessments of needs and strategic partnerships with governments. Thematic programmes, on the other hand, are only to be used if the geographic programmes are not appropriate, for example in countries with difficult partnerships⁴⁰ or having population groups out of reach of mainstream services and resources and excluded from the policymaking process. Despite this clearly stated principle, there has been no change in the way in which capacity-development support is funded in ALA countries since the entry into force of the DCI, and the existing support continues to be funded by the thematic programme (non-state actors and local authorities in development).
- 74.** The lack of a particular strategy is further underlined by the fact that for Asian and Latin American countries, where funds for NSA capacity development are more limited, the possibilities to mainstream involvement of and support to NSAs in the main sectoral programmes financed in these countries (e.g. health or education) have nevertheless not been fully explored. The Commission is preparing a document⁴¹ with the aim of producing guidelines for Delegations that will help to address this issue.
- ³⁸ In the ACP countries there are around 46 capacity-development programmes in 43 countries, amounting to 226 million euro.
- ³⁹ There are some exceptions usually resulting from highly specific circumstances such as Bangladesh because it has a very large NGO sector (206 000 organisations) or Colombia because of its internal armed conflict.
- ⁴⁰ Situations of difficult partnership are defined as those where for one of the following reasons the usual cooperation instruments cannot be fully used to support initiatives undertaken by stakeholders other than central governments: (1) countries where cooperation has been suspended; (2) countries where the authorities are not committed to objectives of poverty reduction and to other basic principles of development policy, including good governance and participation of NSAs and decentralised authorities; (3) countries where the dialogue on participatory approaches to development is very limited.
- ⁴¹ The participation of NSAs in poverty-reduction strategies, sector approaches and monitoring of project implementation (draft paper of EuropeAid E.4, August 2008).

PROGRAMMES ON CAPACITY DEVELOPMENT OF NSAs

75. The Court examined seven programmes amounting to 72,1 million euro (*Annex III*) to assess their relevance and how efficiently they have been implemented⁴². These programmes combine capacity-development activities with the funding of a series of small projects.

⁴² Due to the late start of the programmes, it was generally too early to assess their effectiveness.

⁴³ Bangladesh, Ethiopia, Mali, Peru, South Africa, and Uganda.

76. The Court examined whether the programmes started on time, whether they were implemented within reasonable timescales, and whether the management procedures were sufficiently flexible and suited local realities, especially of small and community-based organisations.

PROGRAMMES ARE RELEVANT ALTHOUGH THERE IS A LACK OF DETAILED SITUATION ASSESSMENTS IN ALA COUNTRIES

77. The programmes examined were found relevant and addressed clear needs and priorities of the NSAs. The Commission guidelines recommend that Delegations should carry out a detailed situation assessment or 'mapping study' to identify in each country representative NSAs and assess their capacities, constraints and potential, as well the work of other donors. However, in the ALA countries, where thematic programmes are in practice the main instrument for the provision of capacity-development support to NSAs, the value of mapping studies is less strongly perceived. For the six countries reviewed⁴³ only Delegations in ACP countries (Ethiopia, Mali and Uganda) have undertaken full mapping studies and their quality varies.

DELAYS IMPINGE ON THE EFFICIENCY AND EFFECTIVENESS OF THE PROGRAMMES

78. Inherent features of the programmes, the effects of which had not been sufficiently foreseen, led to significant delays in six of the seven programmes examined. Most important was the cumulative effect of the lengthy management procedures required first to contract international technical assistance, then for the technical assistants to prepare calls for proposals, and finally to evaluate proposals and sign the grant contracts. A second factor was the tripartite management structure, involving government, NSAs and Commission Delegations. Although this structure is essential to ensure ownership it entails long debates and negotiations both to build initial consensus amongst the parties concerned and to implement it.

- 79.** These delays effectively limit the period of implementation of the activities, especially those of the grantees, leading to decommitment of funds and cancellation of activities, and particularly to reduction of the lifespan of projects, thus damaging the prospects for sustainability⁴⁴ (see paragraph 83(b)).

⁴⁴ In the case of the Ariane programme in Mali, the lifespan of the projects for the two last calls for proposals had to be reduced to only six months.

THE IMPLEMENTATION OF CALLS FOR PROPOSALS DOES NOT ALWAYS FAVOUR THE NSAs MOST IN NEED OF CAPACITY DEVELOPMENT

⁴⁵ For example, in Ethiopia only 11 (5 %) out of 208 applicants were selected in the first call, all either international or capital-based NGOs.

- 80.** Since capacity development of NSAs is the focus of these programmes, the process of project selection must target beneficiaries that, being precisely those lacking in certain organisational capacities, may have difficulty meeting the many requirements prescribed by EC procedures. The Court found that even though many applications were received, in the outcome calls for proposals tended to favour the best-resourced, mainly urban-based, organisations over under-resourced and mainly rural-based organisations⁴⁵.

- 81.** Delegations, in the framework of geographic programme implementation, drew lessons from these first experiences for the subsequent calls: (i) encouraging partnerships between weak NSAs and stronger ones; (ii) funding strong NSAs to train and mentor wider groups of weaker NSAs; (iii) selecting remote regions; (iv) allocating funds by geographical distribution. However, the Commission action does not address all the concerns originally set out in the Commission's communication and guidelines (see paragraphs 11 and 12), which mention the aim of reaching out to as large a proportion of the populations as possible, and emphasise that special attention will be given to small and grass-roots organisations, especially in countries that cover a large geographical area and where many groups and areas are isolated from the consultation and decision-making process.

TOO EARLY TO ASSESS EFFECTIVENESS OF MOST OF THE CAPACITY-DEVELOPMENT PROGRAMMES

- 82.** Due to the late start of the programmes, it was generally too early to assess their effectiveness. Where mid-term evaluations have been conducted, good results have generally been reported.

83. However, in the ACP programmes examined⁴⁶, the Court found indications that the following aspects require further attention from the Commission:

- (a) since the programmes combine capacity-development work with the funding of a series of small projects, the specialised technical assistance teams, which have particular competences in capacity development, also have to carry out routine project management administration⁴⁷. As regards capacity development, the teams have concentrated on training in project management rather than on enhancing NSAs' skills in policy analysis, advocacy work, watchdog functions, promoting human rights, promoting networking, etc., thus underemphasising the policy dialogue role (see paragraph 3(a)), which is also part of the capacity-development agenda defined in the Cotonou Agreement⁴⁸;
- (b) the Court found that impact and sustainability are insufficiently addressed in these programmes. The overall funding was too low, and in some cases too scattered over too many small projects to have a significant impact. Project duration was short, ranging from as little as six months to a maximum of 24 months, whereas, since capacity development is a long-term process, the Court considers that a longer implementation period is needed.

⁴⁶ The ACP capacity-development programmes, resulting from a consistent strategy, have common organisational characteristics including the use of technical assistance. By contrast the few ALA programmes were established ad hoc and vary in structure.

⁴⁷ In Mali, the Court found that technical assistance had duplicated the call for proposals and project-control procedures by contracting additional external assistance to evaluate proposals but reassessing itself the evaluations made. The reason was that technical assistance did not want to incur financial risk (it was asked to provide a financial guarantee for the running of the programme).

⁴⁸ Under Article 4 of the Cotonou Agreement non-state actors are to 'be provided with capacity-building support in critical areas in order to reinforce the capabilities of these actors, particularly as regards organisation and representation, and the establishment of consultation mechanisms including channels of communication and dialogue, and to promote strategic alliances'.

CONCLUSIONS AND RECOMMENDATIONS

THE COMMISSION DOES NOT ADEQUATELY ENSURE THAT NSAs ARE INVOLVED EFFECTIVELY IN THE DEVELOPMENT COOPERATION PROCESS

- 84.** Through its Delegations the Commission has tried to involve NSAs in the preparation of country strategies in virtually all beneficiary countries. However, in many cases the involvement has been limited to one-day seminars rather than the sustained and structured dialogue envisaged by the EU legislation and the Commission's own guidelines. There are widespread weaknesses in the detailed consultation procedures.
- 85.** As regards the new thematic programme on NSAs, Southern NSAs were not adequately involved either in the overall or the local strategies, even though this is a programme primarily designed for these actors.

RECOMMENDATIONS ON INVOLVEMENT OF NSAs

The Commission should make further efforts to strengthen the involvement of the relevant NSAs in its development cooperation process. This involvement should go beyond the definition of the country strategies and include sectoral strategies and projects.

The Commission should take the following steps to strengthen the process by:

- identifying the relevant NSAs;
- establishing clear and predictable schedules of consultations, for both geographic and thematic strategy papers;
- providing the necessary documentation and enough time for NSAs to prepare themselves properly, and feedback on the results of these consultations;
- developing further guidance and training for the Delegation staff.

THE COMMISSION'S MANAGEMENT SYSTEMS GENERALLY ENSURE THAT ACTIVITIES IMPLEMENTED BY NSAs ARE RELEVANT AND LIKELY TO PRODUCE THE INTENDED RESULTS, BUT THERE ARE SHORTCOMINGS

- 86.** The Call for proposals procedure can still be cumbersome and in operation does not ensure sufficient attention for, and timely completion of, project design.
- 87.** There is insufficient guidance and training for NSAs on the practical application of the financial rules, and inconsistent interpretations as well as specific practical problems persist.
- 88.** There are weaknesses in monitoring and evaluation.
- 89.** Prospects for long-term sustainability are poor mainly because of the short project duration, lack of long-term funding and inadequate institutional arrangements.

RECOMMENDATIONS ON MANAGEMENT OF ACTIVITIES IMPLEMENTED BY NSAs

Selection procedures

- Measures already in train to improve implementation of the Call for Proposals procedure should be carried through with particular emphasis on aspects that could help to assure good project design.

Control and supervision procedures

- Besides resolving outstanding issues, the Commission should ensure that guidance and support on procedures are more accessible to the potential beneficiaries.
- The Court would like to reiterate its view that there is scope for preventing errors relating to financial and contractual rules by means of enhanced targeting of monitoring and support by Delegations⁴⁹.

Monitoring

- In light of its intended move to results-based management the Commission should ensure that sufficient resources, guidance and expertise are available to both Delegations and NSAs to develop, apply, monitor and report on quantitative and qualitative performance indicators.

Sustainability

- In order to improve sustainability, the Commission should consider the use of a mix of instruments when working with NSAs and not only projects.
- The Commission should carry out selective post-implementation reviews of the sustainability and long-term impact of NSA projects.

⁴⁹ Paragraph 8.18 in Chapter 8 of the Court's Annual Report concerning the financial year 2007.

THERE IS A STRATEGY FOR CAPACITY DEVELOPMENT OF NSAs IN ACP COUNTRIES BUT NOT YET FOR MOST OF THE ALA COUNTRIES

- 90.** A strategy does not exist for most of the ALA countries. Unlike in the ACP countries, where geographic programmes are used, in ALA countries there is too much dependence on the thematic programme on NSAs for funding capacity development. In the Court's view this is not appropriate because it is contrary to the principle stated in the DCI Regulation that geographic programmes should be used whenever possible.

RECOMMENDATIONS ON STRATEGY DEVELOPMENT

The Commission should develop strategies for capacity development of NSAs in ALA countries setting out which NSAs, sectors and themes are to be targeted, what working methods will be used, and how coherence with other programmes is assured. It should reconsider the disparity in the approach as between ACP and ALA countries.

ALTHOUGH THE CAPACITY-DEVELOPMENT PROGRAMMES ARE RELEVANT THEY HAVE NOT REACHED THEIR FULL POTENTIAL

- 91.** The audited programmes were found highly relevant although needs assessments in the form of comprehensive 'mapping studies' were not carried out for the ALA countries. The programmes have not, however, reached their full potential mainly because their management procedures and structures are inherently complex. The consequences of this were not fully appreciated from the start, and the resulting delays had a direct impact by reducing the time available for the active life of projects, so worsening their prospects for effectiveness and sustainability.
- 92.** These programmes are faced with the potential contradiction of supporting capacity development of the NSAs most in need by means of a procedure (Call for Proposals) which is designed to select the best-performing NSAs.

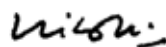
RECOMMENDATIONS ON IMPLEMENTATION OF CAPACITY-DEVELOPMENT PROGRAMMES

The Commission should take full account of their inherent complexity when planning these programmes. It should also consider the interaction between the necessarily complex structures and the legal framework, and devote resources to examining ways of delivering the policy aims within this constraint.

Alternatives to the current procedures should be explored, both to allow a more strategic approach (such as a better use of the capabilities of technical assistance, use of partnership agreements, multi-donor funding) and to better reach the grass-roots organisations (such as the use of cascading grants).

This Report was adopted by the Court of Auditors in Luxembourg at its meeting on 18 and 19 March 2009.

For the Court of Auditors



Vítor Manuel da Silva Caldeira
President

CONTRACTED AMOUNTS WITH NSAs

According to EuropeAid, the contracted amounts with NSAs in 2006 and 2007 can be estimated at 836,43 and 915,26 million euro (excluding Humanitarian aid¹), as follows:

(million euro)

DOMAIN	Year 2006	Year 2007
Thematic Programmes	555,04	430,11
NGO Co-financing	200,10	207,89
Decentralised Cooperation	6,30	0,18
Human Rights and Democracy	97,28	40,72
Environment	59,14	21,08
Food Security	74,84	109,26
Gender Equality	2,90	0,85
Health	91,64	25,60
Anti-Personnel Landmines	4,99	8,97
Migration and Asylum	16,28	15,56
Illicit Drugs	1,57	0,00
Rehabilitation/Refugees	17,02	21,64
Other Programmes	0,45	18,1
Geographical Programmes	73,92	164,00
Asia	19,62	116,93
Latin America	3,55	4,26
Mediterranean	45,49	6,85
Tacis	5,26	35,96
Total General Budget	646,43	633,85
European Development Fund	190,00	281,41
GRAND TOTAL	836,43	915,26

¹ NGOs have been actively cooperating in the implementation of humanitarian aid actions since the 1990s. DG ECHO has long-term Framework Partnership Agreements with a list of NGOs. About 50 % of the ECHO funding goes to NGOs (about 353 million euro in 2007).

MAIN PROVISIONS OF THE COTONOU AGREEMENT RELATED TO NSAs

Article 4:

... the parties recognise the complementary role of and potential for contributions by non-state actors and local decentralised authorities to the development process. To this end, ... non-state actors and local decentralised authorities shall, where appropriate:

- be informed and involved in consultation on cooperation policies and strategies, on priorities for cooperation especially in areas that concern or directly affect them, and on the political dialogue;
- be provided with financial resources, ..., in order to support local development processes;
- be involved in the implementation of cooperation project and programmes in areas that concern them or where these actors have a comparative advantage;
- be provided with capacity-building support in critical areas in order to reinforce the capabilities of these actors, particularly as regards organisation and representation, and the establishment of consultation mechanisms including channels of communication and dialogue, and to promote strategic alliances.

Article 6:

1. The actors of cooperation will include:

- non-state:
 - (a) private sector;
 - (b) economic and social partners, including trade union organisations;
 - (c) civil society in all its forms according to national characteristics.

2. Recognition by the parties of non-governmental actors shall depend on the extent to which they address the needs of the population, on their specific competencies and whether they are organised and managed democratically and transparently.

Article 7: Capacity building

The contribution of civil society to development can be enhanced by strengthening community organisations and non-profit non-governmental organisations. This will require:

- encouraging and supporting the creation and development of such organisations;
- establishing arrangements for involving such organisations in the design, implementation and evaluation of development strategies and programmes.

Article 10:

provides that greater involvement of civil society organisations shall be associated with this [political] dialogue.

Article 19: Principles and objectives

1. ...
2. ...
3. Governments and non-state actors in each ACP country shall initiate consultations on country development strategies and community support thereto.

Article 33: Institutional development and capacity building

... Cooperation shall span all areas and sectors of cooperation to foster the emergence of non-state actors and the development of their capacities; and to strengthen structures for information, dialogue and consultation between them and the national authorities, including at regional level.

Article 57:

... Without prejudice to the provisions above, eligible non-state actors may also be responsible for proposing and implementing programmes and projects in areas concerning them ...

Article 58: Eligibility for financing

... Non-state actors from ACP states and the Community which have a local character shall be eligible for financial support under this Agreement, according to the modalities agreed in the national and regional indicative programmes.

Article 4 of Annex IV:

the draft indicative programme shall contain: ... the types of non-state actors eligible for funding, in accordance with the criteria laid down by the Council of Ministers, the resources allocated for non-state actors and the type of activities to be supported, which must be not-for-profit; ...

Article 5 of Annex IV:

... [the joint annual review] shall in particular cover an assessment of: ... the use of the resources set aside for non-state actors.

LIST OF THE PROGRAMMES, PROJECTS AND LOCAL CALLS FOR PROPOSALS EXAMINED

LIST OF PROGRAMMES OF NSAs' CAPACITY-DEVELOPMENT SUPPORT

Domain	Project description	Country/region	EU contribution (Euro)
ALA	EU-Andean Community in Action with Andean civil society	Andean Community	4 100 000
ALA	Small Initiatives by Local Innovative NGOs (SMILING)	Bangladesh	8 000 000
EDF	Civil Society Fund	Ethiopia	10 000 000
EDF	Appui et Renforcement des Initiatives des Acteurs Non-Etatiques (ARIANE)	Mali	7 000 000
South Africa	Support to Civil Society Advocacy Programme (CSAP)	South Africa	10 000 000
South Africa	Foundation for Human Rights in South Africa (FHR)	South Africa	25 000 000
EDF	Civil Society Capacity Building Programme	Uganda	8 000 000
TOTAL AMOUNT			72 100 000

LIST OF NSA PROJECTS

Domain	Project description	Country/region	EU contribution (Euro)
EIDHR	Promotion of Human Rights of Indigenous People in Bangladesh — NGO: IPDS	Bangladesh	88 587
ONG	Underprivileged Children Preparatory Education Project — NGO: Secours catholique	Bangladesh	253 179
ONG	Advancing Rural capacity in Haor (ARCH) — NGO: Concern World Wide	Bangladesh	471 970
Food Security	Food Security Increased through Rights Promotion and Sustainable Livelihoods Training (FOSHOL) — NGO: Action Aid	Bangladesh	2 322 170
Food Security	Preservation of Farm Resources and Improvement of Food Security for the Vulnerable Rural Families of Damot Gale and Kachira Bira — NGO: Inter Aide	Ethiopia	700 000
ONG	Woreda Capacity Building — NGO: Farm Africa	Ethiopia	1 096 597
Food Security	Food Security Capacity Building in Shashogo and Alaba Woredas — NGO: LVIA	Ethiopia	630 500
EIDHR	Social Integration of Menja Ethnic Minorities of Chena and Gimbo Woredas — NGO: ActionAid	Ethiopia	90 000
EIDHR	Promotion of practices of respect and defence of human rights for the reduction of torture and rehabilitation of victims of political violence — NGO: CAPS	Peru	94 415
Gender	Promotion of the incorporation of women micro-entrepreneurs and family-based economic units in the formal labour system — NGO: M. Manuela Ramos	Peru	665 458

ANNEX III

LIST OF NSA PROJECTS

Domain	Project description	Country/region	EU contribution (Euro)
ONG	Integration of poor micro-enterprises, with competitive potential, into the economic activity of local and regional markets — NGO: Oxfam Novib	Peru	1 500 000
ONG	Institutional strengthening and promotion of the local economy to fight poverty in the department of Junín — NGO: Frères des Hommes	Peru	715 780
ONG	Access to social security rights in South Africa — NGO: DanChurch	South Africa	587 820
ONG	The Salesian Youth Capacity Building Project — NGO: Coop. Mission au Developpement	South Africa	400 000
South Africa	Support to Policing of Crimes against Women and Children in Eastern Cape — NGO: FAMSA	South Africa	59 204
South Africa	Support to Policing of Crimes against Women and Children in Eastern Cape — NGO: NICRO — Victim Support	South Africa	85 435
TOTAL AMOUNT			9 761 115

LIST OF LOCAL CALLS FOR PROPOSALS

Domain	Call for proposals description	Country/region	EU contribution (Euro)
Food Security	Food Security 2003 Call for proposal	Bangladesh	4 500 000
EIDHR	European Initiative for Democracy and Human Rights (EIDHR) Call for proposals — Micro-projects Bangladesh — 2006	Bangladesh	525 000
EIDHR	2006 European Initiative for Democracy and Human Rights (EIDHR) micro-projects programme for the campaign 'Promoting the democratic process'	Ethiopia	975 000
Food Security	2005 Food Security Programme — Allocation for NGOs	Ethiopia	5 000 000
EIDHR	2005 European Initiative for Democracy and Human Rights micro-projects programme	Peru	575 000
EIDHR	2006 European Initiative for Democracy and Human Rights (EIDHR) micro-projects programme	Peru	380 000
South Africa	Support to Policing of Crimes against Women and Children in Eastern Cape	South Africa	750 000
TOTAL AMOUNT			12 705 000

DEVELOPMENT COOPERATION ACTORS VISITED ON THE SPOT

Country*	State bodies (including local authorities)	NGOs		Other NSAs	Other donors
		North	South		
Ethiopia	Ministry of Finance and Economic Development Ministry of Capacity Building Water Resource Development and Natural Resources Development Offices in Alaba and Dale Gale Woredas (Districts)	Inter Aid LVIA CAFOD/Trocaire Oxfam GB CISP German Agro Action	Acord Hundee Farm Africa	Cotonou Task Force EOC-DIDAC ARRD-AFM Woreda (District) Development Association in Konso Derashe Peoples' Development Association Bedene Irrigation Cooperative in Alaba Woreda Kebele Iddirs in Dale Gale Woreda	Canada (CIDA) Sweden (SIDA) Irish Aid UK (DFID)
Bangladesh	Comptroller and Auditor General Ministry of Foreign Affairs Ministry of Finance (Economic Relations Division) NGO Affairs Bureau	ActionAid Bangladesh Caritas Bangladesh Concern Worldwide Save the Children US	BRAC Indigenous Peoples' Development Services Noakhali Rural Development Society Private Rural Initiative Programme (PRIP Trust)	Federation of NGOs in Bangladesh Defuliapar School Management Association Bhubankura School Management Association East Barahipur Farmers' Group Ramkrishnopur Farmers' Group Livestock Services Centre Ewajsbalia	Australia (AusAID) Canada (CIDA) Netherlands UK (DFID) UNDP (United Nations Development Programme) World Food Programme

* See *Annex III* for details of the projects and calls for proposals examined.

ANNEX IV

Country*	State bodies (including local authorities)	NGOs		Other NSAs	Other donors
		North	South		
Peru	Regional Administration for Work and Employment Promotion Junin Provincial Council of Huancayo Town Council of Tarma Town Council of Palca	Oxfam Novib, Assoc. Frères des Hommes German Agro Action	CAPS Mov. Manuela Ramos Idesi Adec/Atc Action for the Children	Copeme Coremype Junin Chamber of Commerce Junin Two women's associations Puente Piedra Farmers' association Huallquin Craftmen's Association Huancayo Shoemakers' Association Huancayo Community Committee San Juan Lurigancho Community Association Paucamarca	Belgium Spain (AECI) UNDP
South Africa	Civil Society Advocacy Programme (CSAP) Commission for Gender and Equality (CGE) SA Human Rights Commission (SAHRC) State Policy in Port Elizabeth Ministry of Finance (Department for International Cooperation Development) Ministry of Justice (unit in charge of donor coordination) in Pretoria		Salesian Centre, Cape Town Black Sash National FAMSA NICRO Victim Friendly Centre, Port Elizabeth Foundation for Human Rights (FHR)	Southern Africa AIDS Trust Africa Institute of South Africa Centre for Police Studies Institute for Security Studies Khulumani Support Group Lawyers for Human Rights South Africa Institute for International Affairs SOS Tsogang Sechaba	France Germany Greece Ireland Netherlands UK (DFID) UN office on drugs and crime

* See *Annex III* for details of the projects and calls for proposals examined.

REPLY OF THE COMMISSION

EXECUTIVE SUMMARY

I.

The evolving context rightly recalled by the Court should however be considered in all its aspects.

There are indeed the evolving approaches discussed within the international community of Donors and to some extent with recipient Governments but there are also tremendous changes in the number and quality of NSAs — international and local — present in the development playing field (please also refer to point 18 below).

The Commission notes that there is no agreed definition of the term non governmental organisations and is ready to discuss this issue with the European Parliament in line with their request (point 19, discharge 2006).

The different legal frameworks of EDF and General Budget deserve to be considered also for the provisions concerning the activities to be implemented by NSAs.

III.

A very significant increase in interaction between Commission Delegations and local NSAs has occurred since the deconcentration of the relevant programmes and, especially, the management by Delegations of local calls for proposals.

Several other factors which influence NSA involvement in the development cooperation process must be mentioned:

- differences between geographical (budget and EDF) and thematic programmes;
- partner governments priorities and ownership;
- aid effectiveness agenda;
- changes within the NSA world (number, quality and type).

REPLY OF THE COMMISSION

IV.

The selection procedures applied by the Commission aim to identify the proposals that would maximise the overall effectiveness of the programme through considering, in addition to the criteria mentioned by the Court, the feasibility and cost-efficiency of the proposed actions as well as the financial and operational capacity of the applicant and partners.

The Call for Proposals mechanism results in wide publication, transparency, clear guidelines and consistent interpretation of procedures and financial rules.

There are a number of the *ex post* evaluations and monitoring exercises conducted by the Commission, which look also at the sustainability of these actions at project level.

V.

As observed by the Court, the issue of NSA engagement is treated in different ways under the Cotonou Agreement compared to the Regulations applicable to non-ACP countries. This also extends to the availability of funding for in-country capacity-building of NSAs. And thus funding for capacity-building of NSAs in non-ACP countries is essentially limited to the thematic programme.

Within these limitations, significant work has been initiated to bring forward in a more systematic manner the interaction with NSAs, and an assessment exercise was undertaken by HQs with regard to engagement with NSAs (report provided to the Court).

VI.

Despite the fact that former ALA regulation didn't formally envisage capacity building support to NSAs, various studies and programmes are being carried out in this issue in both Latin America & Asia.

A significant number of projects/programmes in Asia and Central Asia which are/will be implemented through non-governmental organisation have been adopted in 2007 and 2008. While their primary objective is to contribute to poverty eradication, improvement of access to social services and improvement of governance and rule of law, they support non state actors in pursuance of these goals.

VII.

The Commission is strengthening the involvement of NSAs by:

- better knowledge management through PADOR and better dissemination of knowledge through CISOCH;
- launching of pilot mapping studies designed, if possible, in close cooperation with government;
- improving predictability and transparency related to the consultation process.

The Commission will continue with the simplification of calls for proposal, shortening the procedure and promoting implementation at local level.

REPLY OF THE COMMISSION

The Commission believes that the control system in place ensure a sound financial and contractual monitoring.

Delegation and NSA staff will continue to be trained, including on the use of performance indicators.

A mix of instruments is being considered in view of the regulatory framework created by the Financial Regulations, EDF, DCI, EIHDR and ENPI.

Capacity development should preferably be channelled through geographic programmes, the principle of alignment of aid requires that partner country governments define strategies, sectors and themes within this context. The Commission will continue to promote the involvement of NSAs.

More and more interaction is structurally organised between different instruments and programmes to allow a better complementarity with activities supported by the bilateral, thematic and regional contexts. In addition, the Commission participates actively in the donors' coordination mechanisms. The Commission is of the opinion that other channels such as the extension of the sub-granting must be considered.

INTRODUCTION

2. The Commission notes that there is no agreed definition of the term non governmental organisations and is ready to discuss this issue with the European Parliament in line with their request (point 19, discharge 2006).

5. Please refer to reply to paragraph 52.

AUDIT SCOPE AND APPROACH

OBSERVATIONS

18. Since its early days the Commission has been championing the role of NSAs in development and has developed supporting policies and financing activities for facilitating their involvement. Reference texts such as communications and guidelines highlighted by the Court are a clear demonstration of this importance.

The 'European Consensus on Development' rightly recalled by the Court should, however, be considered in all its aspects.

There are, indeed, evolving approaches (alignment to partner governments priorities, ownership, harmonisation ...) but there are also tremendous changes in the number and quality of NSAs — international and local — present in the development field.

This evolution is paramount to understand the possibilities and limits of NSA involvement in the development cooperation process.

REPLY OF THE COMMISSION

Moreover methods are sharply different when dealing within a bilateral context from methods of works applied within thematic programs.

21.

Although not legally obliged, the Commission confirms that as far as possible it has always tried to consult with NSAs, this was a political objective where local conditions were conducive to such consultations.

There has been increased consultation effort with civil society undertaken by the EC in the course of the 2007–13 programming exercise compared with previous exercises. Furthermore, the need for close consultation of civil society has been reiterated in the guidelines for the mid-term review of the 2007–13 Strategy Papers.

At the time of the preparation of the 2002–06 CSP, there was no general legal obligation for programming in Asia and Latin America to involve NSAs and devolution was at its beginning. The Delegations visited by the Court were devolved in the three different waves (1st South Africa and Mali, 2nd Ethiopia and Peru, and third Bangladesh) and thus for some of them, the preparation of the CSP was essentially carried out under the responsibility of HQ.

See also reply to paragraph 22.

22.

The level of involvement of the various stakeholders in the programming process is heavily dependent on the specific situation of every country and the applicable legal framework of cooperation. Within the bilateral cooperation and accordingly with the conclusions of the Paris Declaration and of the European Consensus, when even possible the partner governments should be the in driving seat and this should more and more be up to them to organise the consultations of the various stakeholders. The Commission is obviously supporting any consulting process but final priorities and objectives have to be owned by the partner country and not imposed.

The NSAs consultation process followed for the preparation of the Peru CSP represented the first attempt at a structured approach, at a time when, under the then-prevailing AL Regulation, no consultation was formally required. This approach will be built upon in future programming exercises.

23.

Guidelines are orientation papers. They have to be implemented when possible in a pragmatic manner taking into account the specific context.

24.

The situations of ACP and DCI countries are not comparable as the political and legal framework contexts are very different. There is on the one hand a mutual agreement of all ACP and EU countries for matters concerning the involvement of NSAs and on the other hand a DCI regulation decided by EU only.

25.

This is in line with the legal basis and requirement in force at the time.

REPLY OF THE COMMISSION

26.

The Commission agrees and would like to emphasise these essential considerations should be borne in mind throughout the report:

- The Commission signals in particular that despite the difficulties for NSA involvement Delegations have systematically made efforts to engage on dialogue with NSAs.
- These difficulties are all inherent weaknesses of the NSAs community, which is not a homogeneous bloc, and lacks organisation and representativeness. These factors — coupled with national legislative and regulatory issues in the partner countries are another major stumbling block precluding the involvement of the NSA community ‘as one’ into the EC’s development cooperation.

27.

See replies to paragraphs 24–26

The Guatemala example illustrates the difficulties in, and need for, establishing a definition of the legal limitations of a sustained consultation process with civil society.

28.

Translating the ambitious goals of involving NSAs in the development cooperation is a major challenge. This is however to be understood as a major ‘political challenge’ much more than a commitment to ensure the involvement of each and every NSA from a specific country.

The Commission would like to stress that as far as NSAs are concerned, there is no one size fits all for training as the NSAs ‘architecture’ varies immensely between countries.

Since 2004/05 EuropeAid has provided tailor-made upstream guidance during the instruction phase of NSAs programmes, and downstream during implementation. Delegations are also provided with operational guidance: firstly through its intranet where guidelines and good practices are posted; secondly through regional seminars where knowledge about commitment in dialoguing with NSAs and exchanges with colleagues are enhanced and finally through studies.

In addition, EuropeAid organised in 2008 various seminars designed to provide training to Delegations and CSOs on thematic operations management and CSO consultations (total cost EUR 900 000):

- *EC internal trainings*: three seminars (Brussels, Tbilisi and Addis Ababa) gathering in total 185 representatives of almost 70 Delegations + four training sessions organised in Brussels (120 representatives of Delegations and HQ)
- *EC trainings for SCO* (open to representatives of European & local SCO): three regional seminars (Porto Alegre, Yaoundé, Manila) gathering 49 representatives of 28 Delegations and 193 representatives of European & local SCOs.

These events enabled both HQ and Delegations to revive the ‘civil society focal points network’ used to disseminate methodological tools in-house.

REPLY OF THE COMMISSION

In 2009, in addition to the organisation of five other Regional seminars, EuropeAid will make operational the Civil Society Helpdesk (CISOCH) established at the end of 2008 and intend to develop an online tool that will strengthen both coordination of the different services of the Commission and dissemination of 'best practices' as far as NSAs are concerned.

29.

NSA involvement in aid effectiveness was not on the international political agenda when the guidelines were drafted in 2004. Taking stock of the impact of this recent evolution on civil society and on the practice of the Commission, EuropeAid has developed a draft guidance document on the issue of civil society participation in new aid modalities, including general budget support and sector programmes implemented through budgetary aid (see point 74 where the Court also takes stock of this evolution).

31.

The consultation process is very heavy and time-consuming. In order to respect deadlines and a centralised and accessible technical tool has to be put in place, in order to provide a quick and common access to the same 'space' of discussion.

The 'Civil Society Helpdesk (CISOCH)', under the form of a documental database ('wiki'), will provide part of the solution.

33.

See replies to paragraphs 21 and 69.

34.

This is indeed the result of the late legal adoption of the regulation which will not occur again on condition the partner countries are willing to actively take part in this process.

After the Court's audit, most of the Delegations (including Peru) consulted NSAs, and this procedure will continue for next years.

35.

The fundamental purpose was to secure the widest possible coverage of countries under the thematic programme.

In addition see also replies to paragraphs: 21, 22, 31, 84 and 85.

38.

As of 1.1.2003 the Financial Regulations require by default the use of 'call for proposals' to award grant contracts. The insufficiency of the available budget is on the one hand a sign of its success and on the other hand unavoidable in term of scarce financial resources for external aid. With reference to the old NGO co-financing programme and at the explicit request of the European Parliament had to step up the inclusiveness character and foster the NGOs' right of initiative and thus could not have a more focused approach (see reply to paragraph 35). We could concur that the detailed procedures are cumbersome but we are obliged to respect the compulsory regulatory framework to foster sound financial management. Although there is no clear definition of a 'small NGO' the existing data shows that NGOs of all different sizes participate in the Calls of proposals in an applicants (leader) capacity or partner capacity. This is all the more true as from 2006 with the introduction of the Concept Notes there has been a decrease in the proposal submission requirements at the first stage of the procedure.

REPLY OF THE COMMISSION

39.

The deadlines are imposed by the regulatory framework and although within the allowed margin for flexibility, important improvements have been made. While the projects audited by the Court relate to a previous period, the current average delay between the submission of proposals and the actual signing of contracts is now much less than a year.

It is hereby also reminded that the existing regulatory framework for publicising Call for proposals, concern the legal minima; hence creative imagination of operational actors can be useful for additional means for publicity. Accordingly, in addition to the legal requirements, information on the Call for Proposals is normally channelled through bulletins or other means by NGOs platforms. In addition, for more than a year Europe-Aid has been systematically sending e-mails to umbrella organisations for information dissemination purposes.

Reaching local NSAs at grass-roots level remains a major challenge. Local Calls for Proposals published by Delegation since 2007 will help meet this challenge.

However, the Commission, although it is adapting its tools to ensure the enforcement of the publicity requirements, states that there are limits to its possibility to reach all NSAs at grass-roots level for its services and is wondering if this is the Commission's role.

40.

The Commission welcomes the positive appreciation of the Court regarding the measures taken in view of improving the efficiency of the Call for Proposals procedures.

- (a) Experience shows that this new method has generally obtained good results (see point 39). Indeed, the restricted procedure already simplifies the selection procedure.
- (b) This system provides a longer and more manageable time frame for all parties. This increases the possibility of foreseeing our actions both for the Commission internal use of resources as well as for the NSAs in order to plan their strategy and investments for the submission.
- (c) PADOR (Potential Applicant Data Online Registration) simplifies and decreases the selection time process.
- (d) Indeed, the possibility of adapting calls for proposals increases the efficiency of the process in selecting relevant NSAs, as demonstrated by the first experiences in local calls for proposals.

41.

In selecting proposals, evaluators carefully check the presence of some elements of the logframe approach in the full application (preparatory, stakeholders and problems analysis as well as the analysis of the objectives and strategies of the project proposal).

For certain types of project, carrying out diagnostic identification of beneficiaries or studies can be an inherent part of the project itself: aiming for instance at empowering grass-roots organisations and improving ownership.

REPLY OF THE COMMISSION

The Commission would like to note that this project was monitored in 2007, by an external independent evaluator, as part of the results-oriented monitoring exercise, obtaining different conclusions about the 'project design'.

The project was qualified as highly relevant and with a good quality design (b = good). Also the potential sustainability is qualified as A (= very good); the alliance with Ministry of Labour and Employment is mentioned as one of the major achievements of the project, at the same time as a real closeness with the local and regional authorities.

The ROM exercise is one of the most useful working instruments for Delegations monitoring follow-up tasks. In addition, there was a monitoring of the project in 2006, at the beginning of the action.

42.

The Commission makes sure that CONCORD readers are published on the EuropeAid intranet page and it has been addressed to all Sub-delegated Authorising Officers by separate note.

43.

The Commission attaches the highest attention to continuously improve its control systems and has introduced over the past years numerous measures to further reinforce them, among which the new terms of reference for mandatory expenditure verifications for grant contracts (February 2006) and for audits launched by the Commission (October 2007).

44.

The different viewpoints of representative of the NSAs and Delegations should be analysed in view of the different roles. Considerations concerning the management of the Delegation's staff turnover in a devolved context are independent from NSAs but are closely monitored by the Commission to ensure continuity of service and maintenance of level of quality. However, the 'zero growth in staff' policy combined with the increase of funds and the new opening of Delegations is creating organisational stress.

EuropeAid arranges training courses in Brussels for staff (basic level as well as advanced) on grants procedures every quarter. Training and workshops are also regularly given at regional seminars (Brussels and in-country). An e-learning course (basic level) is being developed during 2009 so that more staff in delegations can have access to training. EuropeAid has recently published FAQs on the intranet, which also covers grants. There are plans to hold joint seminars with Concord members (train the trainers), information days are organised on the occasion of many Calls for proposals.

45.

The geographic programmes usually provide specific capacity to NSAs on implementation rules in the framework of a more global capacity-building strategy. Capacity building on these issues is therefore more regular and built on a longer-term vision.

As far as trainings is concerned, please refer to point 28 (Seminars and CISOCH — Civil Society Helpdesk).

REPLY OF THE COMMISSION

46.

The Commission considers that the non-legally-binding nature of the Reader is not necessarily the reason it is not used. The Commission publishes the CONCORD Readers on the EuropeAid intranet page and they have been communicated to all Sub-delegated Authorising Officers.

Nevertheless, it is obvious that assessment of factual findings and decisions in individual cases remain the responsibility of the responsible authorising officer.

The Commission is also developing new tools which aim to provide a one-stop shop for the Frequently Asked Questions and other information needs (CISOCH).

47.

Communications have always been provided in a timely manner and as appropriate and in most cases, the modifications have been implemented to address the request made by NSAs via CONCORD.

The Practical Guide (PRAG) has to be adapted whenever the legislator proceeds to modifications of the legal bases (budget/EDF), or of the financial legal framework (FR & IR) (e.g. autonomous IR revision of 08/06, 2007 new legal bases, 2007 revised FR & IR, 2008 new Annex IV EDF).

Any modifications are thoroughly disseminated and always made public through the Internet (also through important messages, technical fiches, and modifications listings).

Nevertheless, even in the case of those updates of the PRAG, on the basis of the principle *pacta sunt servanda*, concluded contracts (and the attached applicable General Conditions thereof) go on applying as initially agreed and their interpretation respects the rules applicable when concluded.

New rules have systematically been presented to and clarified with CONCORD, e.g. in the context of the elaboration of Readers.

In some cases, upon request of the NSAs, the Commission has authorised the application of more flexible rules when they were not automatically applicable retroactively (e.g. note 22238 of 16.8.2005 on exchange rate reference).

48.

In its Annual Reports, the Court has noticed improvements in the audit system due to recent measures introduced by the Commission. At the same time, most of the audit reports reviewed by the Court in the framework of the DAS 2007 were linked to contracts signed before February 2006. As a consequence, the new Terms of Reference set up by EuropeAid for expenditure verifications of grant contracts and put into force for new contracts signed as from this date were not applicable in the cases analysed. The aim of these new Terms of Reference is precisely to detect errors such as the ones mentioned by the Court. The Commission expects that the effects of these improvements become more and more visible.

49.

The new terms of reference for external 'financial audits' (i.e. agreed upon procedure of expenditure verification) launched by the beneficiaries in compliance with the requirements of their EC grant are in force for all new standard contracts signed as from February 2006 (as stated above under point 48). The new terms of reference for the audits launched by the Commission were applicable from October 2007. While the use of the former depends on the date of signature of the contract, the latter were immediately applicable.

REPLY OF THE COMMISSION

50.

(a)

Responsible Authorising Officer — Current legal bases no longer allow for such misunderstandings since the legal environment with regards to rules of origin is now more settled and user friendly. Annex A2 of the Practical Guide lists in a user friendly manner all countries eligible under each legal base.

(b)

The applicable rules are contained in the legal bases and transposed to standard Financing Agreements (when applicable).

DCI and EIHDR Regulations forbid the financing of local taxes by EU funds and thus in the framework of the mid-term review of the legal bases, the Commission is proposing a draft providing for more flexibility on the issue of taxes.

Furthermore Delegations services try to assist locally in the area of tax exemption by taking appropriate measures vis-à-vis the beneficiary country, whenever allowed by the local legal framework (e.g. their NSAs status often doesn't allow the exemption procedure).

(c)

The exchange rate system by its nature is likely to produce exchange losses or gains. The special nature of the grant contract and the need for a reliable and accessible source of exchange rate reference when a reference is set in the contract.

For the Commission, the administrative burden related to the practical application and the calculation in cases where the grant beneficiaries use such exchange rate systems are minor in comparison to the clarity, transparency and fraud-preventing effect provided by such a system.

(d)

The approval of the interim payment is subject to the analysis and approval of reports and/or documents as required by the Financial Regulations.

(e)

On the one hand there has been harmonisation of financial and contractual procedures; on the other hand there is the discretionary judgement of the responsible Authorising Officer for sound financial management.

In particular:

for the additional periodic reports or audit reports, the specific environment of project-management that may require more frequent or in-depth information; for the use of separate specific bank accounts (very appreciated to ease tasks of funds-tracking in case of audit and to identify interest pertaining to the EC), the relevant general conditions enable the beneficiary to have an account or sub-account which identifies the funds paid by the Contracting Authority and allows the calculation of the interests yielded on such funds. If payment options differ from the standards foreseen by the General Conditions, the specific working environment or specific project may require a reduction of the pre-financed funds by the responsible Authorising Officer for a better risk-control and sound financial management. In fact, the responsible Authorising Officer may be obliged to reduce the amounts of the pre-financing payments and/or to obtain further information/clarification prior to authorising them as foreseen by the general conditions.

REPLY OF THE COMMISSION

52.

Work is underway to improve the:

- quality of data in CRIS with data dictionary and data flow;
- quality and number of reports, lists and statistics through the DataWareHouse tool.

New modules are being introduced to complete CRIS:

- PADOR and administrative data in order to know better our partners and to get a more 'horizontal' approach;
- Audit module;
- Prospect module: online registration of proposals, evaluation and follow up;
- Publication: online access of all calls launched by EuropeAid.

In 2008, the Commission published the list of final beneficiaries for 2007 and this will continue.

53.

Project follow-up is being strengthened via training and guidance; standard format for reports are available in the contract. Information in the reports are completed with other sources of information such as ROM reports and field visits.

54.

In the Commission's view, the Logframe approach is a very important part of the majority of the projects.

However, the quantification of results is a costly mechanism often disproportionate for the small-scale projects.

55.

Performance indicators have been the subject of many studies carried out not only by the Commission but also by various NSAs, research centres, international organisations and other donors and it is very difficult to define them in a consensual way and to perform a generally-recognised benchmarking.

However, for some very specific domains, benchmarking might be possible. During its quality check of programmes and projects, EuropeAid assesses the relevance of the quantitative and qualitative indicators contained in the logframes of NSAs' programmes. A list of quantitative and qualitative indicators has been posted on the Intranet in order to guide Delegations when drafting or checking Logframes.

56.

Many support and control activities are carried out by HQ and the Delegations¹, among which field visits. All these mechanisms represent important elements in the whole control and support process of the projects implemented by NGOs/NSAs.

Field visits have to be considered in their interaction with the other monitoring and control activities as well as in the context of the availability of the human resources, keeping in mind the huge number and variety of organisations of the civil society with which EuropeAid works.

¹ These include, among other things, checks on the internal management capacities of the implementing partners prior to signing the contracts, [development of a series of standardised guides and manuals to be used by these partner/s], ex ante and/or ex post checks on the transactions carried out by them, regular monitoring missions and field visits, expenditure verifications by external auditors before making the final payment, training sessions and replies to any request for advice or information.

REPLY OF THE COMMISSION

57.

Delegation staff are available to answer the questions local organisations may have with regard to the rules in force when contracting with the EC. Manuals and training material are also available to Delegation staff.

On-the-spot visits by staff delegations can improve the situation. However, specific controls, like financial or system audits, are established to efficiently deal with financial, accounting and expenditure documentation issues.

58.

Guidelines for project internal monitoring were drafted, published and disseminated to the delegations in December 2007.

59.

The ROM methodology, which is one of the elements of the control system, includes sampling of the devolved projects as well as sampling of the centrally managed ones, often of higher contractual amount.

Annual ROM monitoring missions always include NSA projects. The list of projects to be monitored is agreed consensually between EuropeAid, the Delegation and the ROM monitors.

EuropeAid is working to strengthen its monitoring methodology and is consulting other donors on the possibility of establishing a joint monitoring methodology based on the Accra and Paris declarations.

60.

There are ToRs for evaluations available on the EuropeAid website and they provide guidance for intermediate, final and *ex post* evaluations. The Commission asks services to respect the structure of the document. The Commission reminds that for evaluations the decisive element must be the quality and professionalism of the entity recruited for the task. The latter ensures objective evaluations.

61.

The impact is one of the five DAC criteria definitely corresponding to EC requirements for evaluation of projects and programmes. Moreover, the impact is taken into consideration during the monitoring of EC operations. EuropeAid has developed a methodology for *ex post* ROM that aims to measure the impact and sustainability of all EC-funded projects.

Indeed, thematic projects are normally much smaller scale and sometimes the means of verification (baseline data and *ex post* data) are too costly in comparison to the cost of the action itself. However, with reference to EIHDR for instance, evaluations carried out at present often cover a group of projects and always try to include recommendations per project, even when they are *ex post*, as they can be used as lessons learnt for future actions.

62.

On guidance on Logframe and performance indicators, please refer to points 54 and 55.

63.

The Commission agrees with the fact that sustainability has to be checked *ex ante* and *ex post*. As a result, *ex post* ROM are carried out two years after the completion of projects. (Please refer also 64 & 65).

REPLY OF THE COMMISSION

A qualitative study based on projects monitored by ROM has been realised in 2008 identifying 17 fundamental aspects for project performance. It will be published in 2009.

64.

Even if sustainability of projects is essential, the Commission acknowledges that some local and grass-roots NSAs do not always have the capacity to ensure this sustainability. The Commission underlines the need to ensure, at the same time, the sustainability of our projects and the main objective to strengthen local NSAs. For this reason the Commission is encouraging genuine partnerships between European (rather strong) NSAs & local (rather weak) actors.

65.

A real advantage of international NGOs is their diversification of funding. However, a possible way of correcting this situation is to encourage real partnerships between strong (international) NGO and rather weak (local) NGOs. In EuropeAid Calls for Proposals procedure, is a possibility for applicants to elaborate 'consortiums' involving a leader and partners organisations. NSAs (international ones especially) should be able and willing to favour transfer of knowledge between themselves.

66.

The Financial Regulations impose the Call for Proposals mechanism for action grants while limiting to one year the operating grants: long-term commitment and funding against the regulatory framework. That said, the project duration has no time limits imposed by the Financial Regulations.

67.

A matrix of tools is used on the basis of the possibilities offered by the regulatory and operational framework while project approach remains the most used with NSAs.

Flexibility is required as regards implementation periods. This is the case for human rights promotion where short-term projects can contribute to structural changes.

68.

The evaluation process used by the Commission should ensure that selected projects are well designed. However, to a certain extent, and, in some specific contexts, short projects might not be always sustainable. It is the reason why EuropeAid through increased knowledge of the partners via PADOR is complementing the project-approach with partner-approach.

69.

The issue of NSA engagement is treated in different ways under the Cotonou Agreement compared to the Regulations applicable to non-ACP countries. This also extends to the availability of funding for in-country capacity building of NSAs. Thus funding for capacity building of NSAs in non-ACP countries is essentially limited to the thematic programme.

Within these limitations, significant work has been initiated to bring forward in a more systematic manner the interaction with NSAs, and a assessment exercise was undertaken by HQs with regard to engagement with NSAs (report provided to the Court).

REPLY OF THE COMMISSION

70.

The Commission agrees with the fact the regional and national strategies to support NSAs should be carried out. The evaluation recently conducted on 'Civil society as a channel for aid delivery' has led to a similar conclusion. Along this line, several studies and regional seminars (Central America, Eastern and Southern Neighbourhood, Eastern Africa and Central Asia) to be conducted in 2009 on civil society will put a specific emphasis on this issue, in a period where the mid-term review of instruments and programmes will be conducted.

However, the setting up of specific strategies for each country (mapping) are conditioned by the budget & human resources available.

72.

Despite the fact that former ALA regulation didn't formally envisage capacity building support to NSAs, various studies and programmes are being carried out on this issue in both Latin America & Asia.

Asia: several projects/programmes in Asia and Central Asia which are/will be implemented through non-governmental organisation have been adopted in 2007 and 2008. While their primary objective is to contribute to poverty eradication, improvement of access to social services and improvement of governance and rule of law, they support non-state actors in pursuance of these goals. This is the case notably in Afghanistan, China, Pakistan, Kyrgyzstan and Tajikistan.

Latin America: EuropeAid services have recently sensitised all Delegations in Latin America about the importance of mappings. In addition, a methodological note will be produced on how to feed dialogue and cooperation through geographic or thematic instruments.

ACP: a recent study has been launched to introduce more light into this issue also for the EDF (Etude de capitalisation des programmes d'appui au renforcement des capacités des acteurs non-etatiques sous le 9^e FED).

73.

It is not possible to fully achieve the main objectives of the DCI in two years time. However, as explained above (72), various programmes supporting NSAs are, indeed, being implemented in some ALA countries. This is because the funding of NSA capacity building under the geographical programmes of the DCI is only possible if it is identified — as a result of the dialogue with the partner country — as a priority sector for the EC cooperation programme.

74.

As mentioned before, EuropeAid services have prepared a draft document on the issue of participation of civil society in new aid modalities. This document contains operational recommendations about the entry points for the involvement of civil society in macroeconomic and sector programmes, the instruments to be used according to the context in which the programme will operate and the type of capacity building required for civil society to effectively participate. This document will be further developed in 2009. This second phase will aim at refining the methodology proposed and at providing good operational practices.

REPLY OF THE COMMISSION

77.

The necessity of elaborating a mapping largely depends on the context in the country concerned. In the case of Bangladesh for instance, given the number of NSAs in Bangladesh formal mapping is not possible but the Delegation has good knowledge of the local NSAs and their capacity.

78.

Beside the time frame determined by the regulatory framework and the building of the project social structure, increased attention is, and will be, provided to timely procedural management. The Commission can continue its efforts in training and guidance but only for the steps under its control.

79.

Implementation of the actions can always be extended before its conclusion if necessary. For certain sensitive situations, extension of the implementation duration is necessary and possible for the sound financial management of the project. The effect of decommitment of funds in the General Budget and the EDF is not the same.

80.

It is important to remember that the organisations applying for a Call for proposals must also be able to implement the operational and financial components of the contract that could be subsequently awarded.

Accordingly, in order to guarantee the financial interests of the institution the Evaluation Committees must consider the financial and operational capacity of the applicants and partners in relation to the size, scope and budget of the proposed action. The possibilities given by the Calls for Proposals launched in the context of the new Cooperation Instruments to submit project proposals for amounts as low as EUR 20 000 have increased the possibilities of small rural-based organisations to participate successfully in the respective calls.

Reaching rural-based organisations is a very difficult task, and has been achieved by a number of Delegations through decentralised information sessions or publications on websites, newspapers, etc. It is true that calls for proposals are ill-suited to small and grass-roots organisations but the procedure is compulsory under the present Financial Regulation. Moreover, there are also limits to the need and the capacity of the Commission to reach such entities.

Currently, the existing but very limited possibilities for sub-granting make it possible to reach some of these grass-roots-level organisations and also to contribute to capacity building.

This difficulty has been matched in geographic programmes where calls for proposals are normally part of a more global capacity-building strategy. However the Commission is of the opinion that other channels such as the extension of the sub-granting as proposed by the report of the Court of Auditors must be considered.

REPLY OF THE COMMISSION

CONCLUSIONS AND RECOMMENDATIONS

81.

Communications and guidelines for staff mentioned by the Court contain political objectives not commitments. Nevertheless, through the launching of local call for proposals and of new waves of capacity-building programmes in the context of geographical programmes, good progress has already been achieved in favour of a better involvement of local NSAs.

Local organisations need time to get familiar with the new geographic programmes and procedures, thereby avoiding errors and misunderstandings. Improvement is also linked to the enlarged new tasks of Delegations within the new instruments.

The Commission questions whether it can effectively involve the majority of grass-roots and community-based organisations, even if this would be relevant to the development cooperation process. The Commission should insist that partner country governments play the leading role in promoting NSAs' active involvement in development issues.

83.

(a)

The new backbone strategy of EuropeAid on 'Reforming cooperation Technical Cooperation and Project Implementation Units' promotes a better differentiation, in the design of technical cooperation, between management tasks and the provision of thematic expertise which calls for different types of experts' profiles. More attention is thus drawn to the quality of the latter.

(b)

See replies to paragraphs 63 to 68.

84.

The Commission agrees with the principle that NSAs must be fully involved in the development cooperation process, but this level of involvement differs according to the various legal bases considered. In the framework of the Cotonou Agreement, the need for consultations is agreed and legally binding both for the Commission and Partner States. For DCI countries, the Commission applies an EU regulation: EU efforts to consult effectively NSAs have to be matched by the willingness of national authorities to do so.

Furthermore, in the Commission's view, these texts should also however be framed within new realities such as alignment to partners' governments, and ownership. EC action in support to NSAs takes indeed into account the dual reality of supporting the right of initiative of Civil society organisations and the rising need of ensuring 'alignment' to partners governments priorities.

See also response to paragraphs 24 to 26.

85.

In the programming phase of the new NSA&LA program, the EC duly consulted Delegations via concept notes. Two main correlated factors explain the limited southern NSAs consultations:

REPLY OF THE COMMISSION

- the new 'opening' towards southern NSAs certainly requested a quick adaptation from Delegations (who had to deal with a new kind of stakeholder) but mainly from the local NSAs themselves;
- delays in the approval of the DCI not of the Commission's responsibility prevented the organisation of genuine and relevant consultations in Delegations during its first year of application.

In the very near future (in the framework of the mid-term review & upcoming local calls for proposals), the Commission will do its best to improve consultations. The Commission however, would like to stress that it is hardly feasible to reach all the local stakeholders. We should, for instance, recognise that the Commission cannot effectively involve the majority of grass-roots and community-based organisations, even if they would be very relevant to the development cooperation process.

Recommendations on involvement of NSAs

The Commission reiterates that the inclusion of NSAs is one of the main cornerstones of its action. However, this involvement has to be balanced with the cooperation with sovereign States. NSAs inclusion will be strongly supported, but cannot be imposed, by the Commission.

In the near future, the Commission will strengthen the involvement of NSAs by:

- improving its knowledge of relevant NSAs through the launching of pilot mapping studies designed, if possible, in close cooperation with government (national authorities should remain the main stakeholders in charge of the elaboration of such socio-political mapping);
- improving predictability and transparency related to the consultation process by elaborating, as often as possible, specific calendars and communication material to facilitate the interaction with NSAs.

The Commission intends also to improve guidance for Delegation staff with the launching of a Civil Society Helpdesk (CISOCH): an online capitalisation and dissemination tool designed to provide Commission services (Delegations and Headquarters) and NSAs with clear and coherent information on and for civil society. In addition, please refer also to point 28 related to specific guidance, seminars and training planned.

86.

The Commission acknowledges that, especially for local NSAs, calls for proposals may be cumbersome. However, this procedure is under the present regulation the only legal possible system and is compulsory to be used for the award of grant contract. It is needed to ensure both the sound management of operations and the equality of treatment between candidates.

REPLY OF THE COMMISSION

In order to reach local organisations more easily the Commission has simplified this procedure, it has also introduced the PADOR database which is contributing to a reduction in the delays between the launch of calls and the signature of the contracts.

87.

The Commission is doing its best on training and specific guidance. Furthermore, the Commission will ensure the optimum dissemination of practical tools which have been made available to the Delegations. In addition, with the launch of the Civil Society Helpdesk (using an interactive Web tool), the Commission will provide stakeholders with a user-friendly synthesis of its legal and financial instruments. (See paragraphs 28, 31 and 46).

88.

In the last few years, the Commission devolved the responsibilities of project implementation to Delegations in order to ensure improved monitoring and evaluation capacity in country. Moreover, the Commission is the only donor to complement its internal monitoring capacity through seven regional external results oriented monitoring contractors.

In order to further improve implementation and monitoring, the Commission has taken the initiative of consulting other donors on the development of a joint monitoring system based on the Paris Declaration and the Accra Agenda.

Evaluation is a standard feature for all projects/programs. The EC is also developing an IT database for its project evaluation to enhance the dissemination of lessons learnt and best practices for improved implementation and future project design.

89.

As stated in point 64, the Commission agrees that sustainability of projects is essential and acknowledges the complexity involved in ensuring simultaneously the sustainability of actions funded and the strengthening of local NSAs. Integrated and long-term approaches are being implemented through geographic programs designed in close collaboration with the partner state (especially in the framework of the Cotonou agreement). As far as thematic programmes and instruments are concerned, the Commission would like to underline their specific added value. Thematic operations have been created and supported by the European Parliament in order to:

- enable the EU to operate even in case of very difficult partnerships;
- address a specific issue worldwide as opposed to a regional or national concern.

This illustrates the willingness of the EU to spread its common political/strategic values around the world (protection of human rights, protection of environment etc).

- The Commission will continue with the new practice of call for proposals at local level. It will also extend the use of PADOR as a knowledge management tool.
- In order to improve accessibility, coherence, transparency and standardisation of procedures, a tool called 'CISOCH' is being developed to ensure a better guidance and support. Additional Human Resources for the Delegations would be necessary if the control system is to be modified and based on the on-the-spot visits by Commission staff.

REPLY OF THE COMMISSION

The Commission believes that the control system in place ensure a sound financial and contractual monitoring.

Delegation and NSA staff will continue to be trained, including on the use of performance indicators. However, the Commission underlines the fact that training all NSAs potentially interested in participating in EC programmes is clearly out of reach.

- A mix of instruments is being considered in view of the regulatory framework created by the Financial Regulations, EDF, DCI, EIHDR and ENPI.
- The Commission has developed a methodology for *ex post* ROM with the aim of measuring the impact of projects.

90.

The situation for ACP is very different from ALA countries where the formal involvement of NSAs is more recent.

Furthermore, as in the vast majority of DCI countries, the national authorities have not identified NSA capacity building as a priority. Geographic programmes cannot be used for this purpose, leaving the thematic programme as the only option.

In line with the statement of the Court that capacity development should preferably be channelled through Geographic programs, the principle of alignment of aid requires that partner country governments define strategies, sectors and themes within this context. (cf. Paris Declaration on aid effectiveness and the European Consensus for development and the conclusion of Accra). The Commission will undoubtedly continue to promote the involvement of NSAs.

91.

The Commission welcomes the Court's recognition of the high relevance of the financed projects.

92.

The two issues are not in contradiction: selection of the most appropriate NSAs for the implementation of the action does not preclude the support for specific capacity development need, which could concern the same entity or a different one, with a view to time improvement.

With the Geographical programmes, which are complementary to the Thematic programmes, it is also possible to reach the less efficient NSAs, for instance in terms of capacity building.

The Commission is fully aware of the complexity. More and more interaction is structurally organised, e.g. by the involvement and empowerment of the Geographical Directorate in the preparation and delivery of Thematic programs to allow a better complementarity with activities supported by the bilateral and regional contexts. While there is a political willingness to ensure inclusion of grass-roots organisations, there are clear limits, inherent to:

- (i) the respect of the organisational set up of sovereign states;
- (ii) the respect of sound financial management as per the Financial regulation;
- (iii) the availability of human resources;
- (iv) the time constraint;
- (v) the enormous number of potential actors.

European Court of Auditors

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IN THIS SPECIAL REPORT, THE EUROPEAN COURT OF AUDITORS ANALYSES HOW THE EUROPEAN COMMISSION ENSURES THAT NON-STATE ACTORS (NSAs) ARE INVOLVED IN DEVELOPMENT COOPERATION, CONSIDERING THEIR ROLES IN POLICY DIALOGUE AND AS IMPLEMENTERS OF DEVELOPMENT PROJECTS.

THE REPORT FINDS SOME ASPECTS OF THE COMMISSION'S MANAGEMENT AND PROCEDURES THAT NEED IMPROVING. IT MAKES A SERIES OF RECOMMENDATIONS AIMED AT INCREASING THE EFFECTIVE INVOLVEMENT OF NSAs IN THE DEVELOPMENT COOPERATION PROCESS, BETTER ENSURING THAT ACTIVITIES IMPLEMENTED BY NSAs ARE RELEVANT AND PRODUCE THE INTENDED RESULTS, AND ENHANCING THE PROVISION OF CAPACITY DEVELOPMENT TO NSAs MOST IN NEED.



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